



The Gazette of India.

PUBLISHED BY AUTHORITY.

No. 23. } SIMLA, SATURDAY, JUNE 5, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

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SUPPLEMENT No. 23.

PART I.

Government of India Notifications, Appointments, Promotions, &c.

HOME DEPARTMENT.

NOTIFICATIONS.—ESTABLISHMENTS.

Simla, the 29th May, 1886.

No. 173.—A vacancy having occurred in the office of an Ordinary Member of the Council of the Governor-General of India by the death of the Honourable Major-General Thomas Elliott Hughes, C.I.E., R.A., and no person provisionally appointed to succeed being present on the spot, the Governor-General of India in Council has been pleased, under the provisions of the Statute 24 and 25 Vic., Cap. 67, Section 27, to appoint COLONEL OLIVER RICHARDSON NEWMARCH, Bengal Staff Corps, Officiating Secretary to the Government of India in the Military Department, to be a temporary Member of the Council of the Governor-General of India. COLONEL NEWMARCH has this day taken his seat in Council under the usual salute.

The 31st May, 1886.

No. 177.—*Appointment.*—Lieutenant L. F. Elliott, 29th Regiment, Punjab Infantry, to be an Assistant Commissioner of the 4th Grade in Burma.

The 1st June, 1886.

No. 181.—The services of Mr. H. St. G. Tucker, C.S., Deputy Commissioner of the 3rd Grade in the Punjab, are placed at the disposal of the Foreign Department, with effect from the afternoon of the 3rd ultimo.

The 2nd June, 1886.

No. 185.—Mr. G. J. S. Hodgkinson, C.S., Commissioner of the Irrawaddy Division in British Burma, is placed on special duty at Rangoon.

No. 195.—Mr. W. de Courcy Ireland, B.A., LL.D., Deputy Commissioner of the 1st Grade, is appointed to officiate as Commissioner of the Irrawaddy Division, &c. Mr. G. J. S. Hodgkinson.

EXAMINATIONS.

The 2nd June, 1886.

No. 18.—Mr. E. Lawrence, of the Bombay Civil Service, having obtained a Degree of Honor in Persian, in the 1st Division, has been presented with the authorized donation of Rs. 4,000.

MEDICAL.

The 31st May, 1886.

No. 221.—The services of Surgeon J. F. MacLaren, M.B., in Medical charge of the 12th Bengal Cavalry, are placed temporarily at the disposal of the Government of the North-Western Provinces and Oudh.

The 4th June, 1886.

No. 228.—For paragraph 6 of Home Department Notification No. 150, dated 15th March, 1886, substitute the following:—

“6. In all Provinces for which a separate Sanitary Commissioner is sanctioned, the Sanitary

Department will remain distinct from, and not subordinate to, the Medical Department; and in selection for such posts, knowledge and experience as a Sanitary Officer will be specially considered. The Sanitary Commissioners of these Provinces shall no longer, in virtue of their appointments as such, have the rank and privileges of Deputy Surgeon General. This rule will apply to all officers appointed as Sanitary Commissioners after the 19th March, 1886, the date of receipt of the Secretary of State's Despatch No. 37 Military, dated London, 25th February, 1886. As a compensation for the withdrawal from Sanitary Commissioners of the rank and privileges of a Deputy Surgeon General, Her Majesty's Government have sanctioned the annual grant of four extra pensions of £100 each to senior officers of the Indian Medical Department in the proportion of two for the Bengal and one each for the Madras and Bombay Medical Services. The conditions attaching to the grant of these pensions will be published as a Special India Army Circular by the Military Department."

JUDICIAL.

The 31st May, 1886.

No. 720.—Whereas the district referred to in Home Department Notification No. 1203, dated 23rd September, 1874, as the Upper Godavari District of the Central Provinces has been abolished and the territory forming the same has been constituted a subdivision, known as the Sironcha Tahsil of the Chanda District of the Nagpur Division of the same Provinces; and whereas it is therefore expedient to amend the said Notification, and for the purposes thereof to place the said Tahsil, along with the rest of the Nagpur Division, under the jurisdiction of the High Court at Bombay, the Governor-General in Council is pleased, in exercise of the powers conferred by the Statute 28 & 29 Vic., c. 15, s. 3, to cancel the words "Upper Godavari District of the Central Provinces" in the said Notification, and to authorise and empower the High Court at Bombay to exercise original and appellate criminal jurisdiction over European British subjects of Her Majesty within the territory formerly comprised in the Upper Godavari District, and now forming the Sironcha Tahsil of the Chanda District of the Nagpur Division of the Central Provinces.

POLICE.

The 3rd June, 1886.

No. 276.—The services of Mr. H. G. Wilkins, District Superintendent of Police, Bengal, are replaced at the disposal of the Government of Bengal, with effect from the date on which he assumes charge of the duties of the Deputy Commissioner of Police, Calcutta.

PORT BLAIR.

The 31st May, 1886.

No. 323.—Mr. H. Godwin-Austen, Extra Assistant Superintendent, 1st Class, Port Blair and the Nicobars, is granted leave on private affairs for six months, with effect from the 19th proximo, or any subsequent date on which he may avail himself of it.

No. 324.—Mr. M. V. Portman, Extra Assistant Superintendent, 2nd Class, Port Blair and the

Nicobars, is appointed to officiate as Extra Assistant Superintendent, 1st Class, during the absence on leave of Mr. H. Godwin-Austen, or until further orders.

ECCLESIASTICAL.

The 31st May, 1886.

No. 146.—The Reverend K. E. Barrow, M.A., a Junior Chaplain on the Bengal Ecclesiastical Establishment, to be a Senior Chaplain, with effect from the 24th instant.

PATENTS.

The 31st May, 1886.

No. 647.—Specifications of the undermentioned inventions have been filed, under the provisions of Act XV of 1859, in the Office of the Secretary to the Government of India in the Home Department. Copies have been sent to one of the Secretaries to each of the Governments of Bengal, Fort St. George, Bombay, and the North-Western Provinces. A copy of every specification is open to public inspection, at all reasonable hours, at the Office of the Secretary to the Government of India in the Home Department at the Presidency, upon payment of a fee of one Rupee. A certified copy of any specification will be given to any person requiring the same on payment of the expense of copying.—

No. 154 of 1885.—William Johnson, Hat manufacturer, of Nos. 1, 2 and 3, Sackville Street, and No. 40, Piccadilly, in the County of Middlesex, England, for improvements in ventilating hats and helmets.

No. 167 of 1885.—Charles Allan Jones, of Hatherley Court, Gloucester, England, Solicitor, for improvements in folding tables, music stands or desks, or stand of a similar nature.

No. 49 of 1886.—Louis Sepulchre, of Herstal-lez-Liege, in the Province of Liege and Kingdom of Belgium, manufacturer, for improvements in lamps for burning mineral oils, applicable also to gas burners.

A. P. MACDONNELL,

Offg. Secretary to the Government of India.

REVENUE AND AGRICULTURAL DEPARTMENT.

NOTIFICATIONS.—SURVEYS.

Simla, the 4th June, 1886.

No. 494—83 S.—Erratum.—In Notification No. 449—83 S., dated 21st May, 1886, for "5th instant," read "27th April, 1886."

EMIGRATION.

The 3rd June, 1886.

No. 164—246 E.—In exercise of the power conferred by Section 16, sub-section (2), of the Indian Emigration Act, 1883, the Governor-General in Council is pleased to direct that the authority of the Protector of Emigrants for the Port of Calcutta shall extend to the territories under the administration of the Lieutenant-Governors of Bengal, the North-Western Provinces, and the Punjab, and the Chief Commissioners of Oudh and the Central Provinces, respectively.

C. J. LYALL,

Offg. Secretary to the Government of India.

STAR OF INDIA.

NOTIFICATION.

Simla, the 29th May, 1886.

No. 27 S.I.

Her Majesty the Queen and Empress of India has been graciously pleased to make the following appointments to the Most Exalted Order of the Star of India:—

To be Knights Commanders.

The Honorable Theodore Cracraft Hope, C.S.I., C.I.E., (Barrister-at-Law), Member of the Council of the Governor-General of India.

Charles Edward Bernard, Esq., C.S.I., Bengal Civil Service, Chief Commissioner of Burma.

Nawab Khwaja Abdul Ghani, C.S.I., of Dacca.

William Chichele Plowden, Esq., F.S.S., late of the Bengal Civil Service (Retired).

To be Companions.

William George Pedder, Esq., Secretary of the Revenue, Statistics and Commerce Department, India Office.

Alexander Mackenzie, Esq., B.A., Bengal Civil Service, Secretary to the Government of India, Home Department.

Charles Bradley Pritchard, Esq., Bombay Civil Service, Commissioner of Customs, Salt, Opium and Abkari, Bombay.

By Order of the Grand Master,

H. M. DURAND,

Secretary to the Most Exalted Order of the

Star of India.

INDIAN EMPIRE.

NOTIFICATION.

Simla, the 29th May, 1886.

No. 28 I.E.

Her Majesty the Queen and Empress of India has been pleased to appoint the undermentioned gentlemen, who by their services have merited the Royal favour, to be Companions of the Order of the Indian Empire:—

Surgeon-General Michael Cudmore Furnell, M.D., Indian Medical Service, Surgeon-General with the Government of Madras.

Seth Lachhman Das, of Muttra

Edward Spence Symes, Esq., Bengal Civil Service, Secretary to the Chief Commissioner of Burma.

Rao Bahadur Ranchhod Lal Chhotalal, President of the Ahmedabad Municipality.

Deputy Surgeon-General Alexander Morison Dallas, Indian Medical Service, Inspector-General of Civil Hospitals, Punjab.

Frederick Charles Kennedy, Esq., Manager of the Irrawaddy Flotilla Company, Limited, Burma.

By Order of the Grand Master,

H. M. DURAND,

Secretary to the Order of the Indian Empire.

FOREIGN DEPARTMENT.

NOTIFICATIONS.

*Simla, the 29th May, 1886.**No. 1755 I.*

His Excellency the Viceroy and Governor-General is pleased to confer upon Maharaj Kumari Radeshwar Kishori Kuar, of Tikari, in the District of Gya, Bengal, the title of "Maharani," as a personal distinction.

No. 1756 I.

His Excellency the Viceroy and Governor-General is pleased to confer upon Kumar Rameshwar Singh, of Durbhanga, the title of "Raja Bahadur," as a personal distinction.

No. 1757 I.

His Excellency the Viceroy and Governor-General is pleased to confer upon Kumar Rajendra Narayan Roy Chowdry, Zamindar of Bhowal, in the District of Dacca, Bengal, the title of "Raja Bahadur," as a personal distinction.

No. 1758 I.

His Excellency the Viceroy and Governor-General is pleased to confer upon Rai Mela Ram, of Lahore, the title of "Rai Bahadur," as a personal distinction.

No. 1759 I.

His Excellency the Viceroy and Governor-General is pleased to confer upon Lalla Umrao Singh, Assistant Superintendent, Railway Mail Service, the title of "Rai Bahadur," as a personal distinction.

No. 1760 I.

His Excellency the Viceroy and Governor-General is pleased to confer upon Babu Mohesh Chandra Chakravarti, of Harisankarpore, in the District of Jessore, Bengal, the title of "Rai Bahadur," as a personal distinction.

No. 1761 I.

His Excellency the Viceroy and Governor-General is pleased to confer upon Rao Sahib Balaji Krishna Bendigeri, late Diwan of Savanar, in the Bombay Presidency, the title of "Rao Bahadur," as a personal distinction.

No. 1762 I.

His Excellency the Viceroy and Governor-General is pleased to confer upon Mr. Narayan Sakharam Fadnis, Chairman of the Bench of Honorary Magistrates for the town of Satara and a member of the Municipal and Local Boards of Satara, the title of "Rao Bahadur," as a personal distinction.

No. 1763 I.

His Excellency the Viceroy and Governor-General is pleased to confer upon Babu Durga Prasad, Talukdar and Honorary Magistrate, Gorakhpur, North-Western Provinces, the title of "Rai Bahadur," as a personal distinction.

No. 1764 I.

His Excellency the Viceroy and Governor-General is pleased to confer upon Maulvie Muhammad Ali Khan, of Dinagepore, in the Rajshahye Division, Bengal, the title of "Khan Bahadur," as a personal distinction.

No. 1765 I.

His Excellency the Viceroy and Governor-General is pleased to confer upon Shaikh Altaf Hosein, Rais of Lucknow, Landholder and Honorary Magistrate, Cawnpore, the title of "Khan Bahadur," as a personal distinction.

No. 1766 I.

His Excellency the Viceroy and Governor-General is pleased to confer upon Mr. Rastomjee Jamasjee Ashburner, late Treasurer of the Bombay Currency Office, the title of "Khan Bahadur," as a personal distinction.

No. 1767 I.

His Excellency the Viceroy and Governor-General is pleased to confer upon Mr. Rustonji Mameekji, late 1st Grade Clerk, Presidency Pay Office, Bombay, the title of "Khan Sahib," as a personal distinction.

No. 1062 E.

His Excellency the Viceroy and Governor-General is pleased to confer upon Bhagwan Das, Commissariat Contractor and Banker, Rangoon, the title of "Rai Bahadur," as a personal distinction.

No. 1063 E.

His Excellency the Viceroy and Governor-General is pleased to confer upon the gentlemen mentioned below the title of "Kyet thaye zaung Shiwe Salwè Ya Min," as a personal distinction:—

Maung Ba Wa, 2nd Judge of the Rangoon Small Cause Court

Maung Po, Extra Assistant Commissioner, Insein.

Maung Po Hmyin, Honorary Magistrate and Municipal Commissioner, Rangoon.

GENERAL.

The 2nd June, 1886.

No. 1107 G.—The Governor-General in Council is pleased to recognize the appointment of Mr. B. Achille, as Acting Consul for Italy at Bombay, during the absence of Mr. F. Bozzoni.

The 3rd June, 1886.

No. 1116 G.—With the sanction of Her Majesty's Government, the Governor-General in Council is pleased to recognize the appointment of Mr. R. A. Lowndes, as Consular Agent for the United States of America at Akyah, *vice* Mr. C. Gaudner.

INTERNAL.

The 2nd June, 1886.

No. 1815 I.—Major S. H. Yule, Commanding at Sipri, is vested with the powers of a Magistrate of the 3rd Class, as described in Sections 32 and 33 of the Code of Criminal Procedure, to be exercised within the limits of the Sipri Cantonment.

The 3rd June, 1886.

No. 1334 I.—In exercise of the power conferred by Section 9 of the Indian Christian Marriage Act, 1872, the Governor-General in Council is pleased to license the Reverend T. E. F. Morton, Pastor of the Methodist Episcopal Church at Amere, to grant certificates of marriage between Native Christians in the Native States of the Rajputana Agency.

H. M. DURAND,

Secretary to the Government of India.

FRONTIER.

Lahore, the 13th May, 1886.

No. 566.—In exercise of the powers conferred by Section 3 of the Scheduled Districts Act, 1874, the Lieutenant-Governor of the Punjab is pleased, with the previous sanction of the Governor-General in Council, to declare Act XX of 1863 (to enable the Government to divest itself of the management of Religious Endowments) to be in force in the following Scheduled Districts of the Punjab, namely,—

Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan.

W. M. YOUNG,

Secretary to the Government of the Punjab.

DEPARTMENT OF FINANCE AND COMMERCE.

NOTIFICATIONS.

ACCOUNTS AND FINANCE.

Simla, the 2nd June, 1886.

No. 1178.—*Monthly Preliminary Statement of Receipts and Payments at Civil Treasuries in India.*
April 1886. (Lakhs of Rupees.)

	IN APRIL.		TO END OF		WHOLE YEAR.	
	1886-87.	1885-86	1886-87	1885-86	Estimated, 1886-87	Actuals, Preliminary 1885-86
[For the explanation of these heads, see <i>G.O. of India</i> , dated 22nd December, 1885, Part I, page 407.]						
Civil Revenue.						
Land Revenue (including Land Revenue due to Irrigation)	1,61	1,70			23,12	23,15
Opium	82	71			6,23	8,05
Salt	57	53			6,30	6,34
Stamps	33	31			3,00	3,00
Excise	31	31			1,14	1,15
Provincial Rates	20	23			2,01	2,08
Customs	13	13			1,17	1,20
Assessed Taxe	2	7			1,34	50
Forest (Mitra and Boudya only)	2	2			42	44
Registration	2	2			31	31
Tributes from Native States	5	3			71	71
Other Civil Revenue	25	20			3,20	3,40
TOTAL CIVIL REVENUE DIRECTLY BROUGHT TO ACCOUNT: GROSS	469	443			56,83	55,79
Civil Expenditure.						
Interest on Ordinary Debt and that on Productive Public Works	3	30			3,82	3,81
Opium	9	1,09			2,05	3,95
Other Civil Expenditure	1,75	1,67			22,15	22,25
TOTAL CIVIL EXPENDITURE DIRECTLY BROUGHT TO ACCOUNT: GROSS	307	312			28,02	29,11
Receipts into Civil Treasuries from, and issues from those Treasuries to, the following Non-Civil Departments.						
[The figures comprising Revenue, Expenditure, and Debt and Remittance Transactions.]						
Post Office (Net: + Receipts more, Receipts less, than issue)	+ 37				+ 40	+ 80
Forest, Telegraph, Marine (Net as above)	- 2	- 9			- 1	- 33
Guaranteed and Subsidized Railway (Net as above)	+ 52	+ 57			+ 4,07	+ 4,95
Do Repayment of surplus profits, &c.					- 42	- 45
Military Receipts	+ 7	+ 6			+ 83	+ 1,06
Military Issue	- 1,10	- 1,51			- 12,90	- 14,72
Public Works Department						
State Railway Receipts	+ 47	+ 30				+ 4,18
State Railway Issue	- 67	- 54			- 2,35	- 5,88
East Indian Railway Receipts	+ 40	+ 39			+ 2,80	+ 4,18
East Indian Railway Issue	- 10	- 8				- 1,35
Ordnance Branch Receipts	+ 33	+ 9				+ 1,60
Ordnance Branch Issue	- 61	- 70			- 5,44	- 7,53
TOTAL NON-CIVIL DEPARTMENTS	- 47	- 1,51			- 13,02	- 13,51
Civil Debt and Remittance Transactions.						
Permanent Debt (Net: + Receipts more, Receipts less, than payments)					- 2	- 6
Mint Coinage and Bullion Advances (Net as above)	+ 5	+ 10				+ 17
Exchange and other Accounts	34	25			4,55	2,30
Central Board of Revenue and Telegraphical Receipts	- 1,24	- 1,60			- 13,33	- 11,17
Other Debt and Remittance Transactions	43	4			+ 1,23	+ 25
TOTAL DEBT AND REMITTANCE TRANSACTIONS	1,06	1,32			- 10,67	- 13,17
GRAND TOTAL RECEIPTS AND ISSUES	1,10	- 2,93			- 1,78	+ 20
Opening Cash Balance in Treasuries and Presidency Banks	12,74	12,54			12,40	12,54
Closing Cash Balance in Treasuries and Presidency Banks	11,61	10,51			10,62	12,74

LEAVE AND APPOINTMENTS.

The 4th June, 1886.

No. 1170.—The services of Surgeon-Major H. E. Busteed having been replaced at the disposal of the Government of Madras, in view to his retirement from the public service, and Surgeon-Major J. Scully having been appointed as Assay Master, Calcutta Mint, Surgeon-Major H. E. Busteed made over, and Surgeon-Major J. Scully received, charge of that appointment after noon on the 28th May, 1886.

No. 1182.—Mr. W. T. Piercy, Assistant Accountant-General, Bengal, having returned from privilege leave, received charge of his office, from Mr. C. G. Vansittart, before noon on the 21st May, 1886, and Mr. Vansittart resumed charge of his duties as Assistant Comptroller General, Paper Currency Office, before noon on 22nd May, 1886.

No. 1102.—Mr. T. W. Rawlins, Accountant-General and Commissioner of Paper Currency, Bombay, having been granted privilege leave for three months, and the following appointments having been made during his absence—

(1) Mr. A. F. Cox appointed to officiate as Accountant-General and Commissioner of Paper Currency, Bombay,

and

(2) Mr. C. E. Crawley to officiate as Deputy Accountant-General, Bombay—

Mr. Rawlins made over, and Mr. Cox received, charge of the offices of Accountant-General and Commissioner of Paper Currency, Bombay, and Mr. Crawley received charge of the office of Deputy Accountant-General, Bombay, from Mr. Cox after noon on the 21st May, 1886.

No. 1204.—Surgeon F. C. Reeves having been appointed to officiate as Deputy Assay Master, Calcutta Mint, received charge of that office before noon on the 31st May, 1886.

No. 1211.—The following grade promotions among the officers of the Account Department during the month of May, 1886, are notified—

With effect from the 10th May, 1886, in consequence of the departure of Mr. H. F. Clogston on privilege leave—

Mr. E. W. Kellner to officiate as Accountant-General, Class II.

Mr. W. Donald to officiate as Accountant-General, Class III.

Mr. F. De H. Larpent to officiate as Enrolled Officer, Class II.

Mr. H. S. Groves to officiate as Enrolled Officer, Class III.

Moung Hla Oing to officiate as Enrolled Officer, Class IV.

With effect from the 22nd May, 1886, in consequence of the departure of Mr. T. W. Rawlins on privilege leave—

Mr. H. F. Clogston (on privilege leave) and Mr. E. J. Sinkinson to officiate as Accountant-General, Class I.

Mr. A. F. Cox to officiate as Accountant-General, Class II.

Mr. T. H. S. Biddulph (on privilege leave) and Mr. C. J. Rivett-Carnac to officiate as Enrolled Officer, Class II.

Mr. C. E. Crawley to officiate as Enrolled Officer, Class III.

Mr. A. H. Anthony (on privilege leave) and Mr. C. G. Vansittart to officiate as Enrolled Officer, Class IV.

CODES.

*The 2nd June, 1886.***No. 1128.**

CIVIL LEAVE CODE.

PAGE 104.

Section 127.

Rule 6.

Insert the following after "Engineer" in the first line of this Rule:—

"or an Examiner."

D. M. BARBOUR,

Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 29th May, 1886.

APPOINTMENTS.

No. 360.—PERSONAL STAFF—

The Viceroy and Governor-General has been pleased to make the following appointments on His Excellency's Personal Staff—

To be Honorary Surgeons.

Brigade-Surgeon W. Temple, M.B., V.C., Medical Staff.

Brigade-Surgeon J. A. Scott, Medical Staff.

The 4th June, 1886.

APPOINTMENTS.

No. 361.—With reference to G. G. O. No. 188 of 1885, the Governor-General in Council is pleased to appoint Colonel R. C. Low, C.B., Bengal Cavalry, to the command of the 1st Brigade in Upper Burma, vice Brigadier-General G. C. Holding, Madras S. C., nominated to the command of a Brigade in the Madras Presidency. Dated 29th May, 1886.

No. 362.—BRIGADE—

With reference to G. G. O. No. 189 of 1886, Colonel R. C. Low, C.B., Bengal Cavalry, to have the temporary rank of Brigadier-General (2nd Class) whilst commanding a Brigade of the Field Force in Upper Burma.

No. 363.—ADJUTANT-GENERAL'S DEPARTMENT—

Captain J. E. Mann, Bengal S. C., Wing Officer, 5th Punjab Infantry, Punjab Frontier Force, to be a Deputy-Assistant Adjutant-General for Murkity, vice Major G. W. Rogers, who vacates the appointment on being appointed Commandant of the 2nd Battalion, 1st Goorkha Regiment. Dated 15th May, 1886.

No. 364.—COMMISSARIAT DEPARTMENT—

Lieutenant-Colonel S. Beckett, C.B., Assistant Commissary-General for Transport, 3rd Class, to be Assistant-Commissary-General for Transport, 2nd Class;

Major G. H. Elliott, Assistant-Commissary-General for Transport, 4th Class, and officiating Assistant-Commissary-General for Transport, 3rd Class, to be Assistant-Commissary-General for Transport, 3rd Class.

Major S. D. Turnbull, Sub-Assistant-Commissary-General for Transport, 1st Class, to be Assistant-Commissary-General for Transport, 4th Class;—

Captain E. K. E. Spence, Sub-Assistant-Commissary-General for Transport, 2nd Class, and officiating Assistant-Commissary-General for Transport, 4th Class, to be Sub-Assistant-Commissary-General for Transport, 1st Class;—

with effect from 21st May, 1886, *vice* Lieutenant-Colonel D. L. R. F. Woodbridge, Assistant Commissary-General for Transport, 2nd Class, transferred to the Adjutant General's Department.

No. 365.—MILITARY SECRETARIAT—

Lieutenant-Colonel E. H. H. Collen, Bengal S. C., Deputy Secretary and officiating Accountant-General, Military Department, to officiate as Secretary to the Government of India, Military Department, *vice* Colonel O. R. Newmarch, appointed to act as an Ordinary Member of the Council of the Governor General of India. Dated 29th May, 1886.

No. 366.—NATIVE ARMY—

12th Bengal Cavalry.

The following direct appointment is made, with effect from date of joining:—

Gopil Singh to be Jemadar, on probation, to fill an existing vacancy.

No. 367.—STATE CORPS—

The undermentioned officers are admitted to the Bengal Staff Corps, with effect from the dates specified, subject to the confirmation of the Secretary of State for India:—

Lieutenant Algernon George Payton, East Surrey Regiment, Squadron Officer, 9th Bengal Lancers, — 25th April, 1886.

Lieutenant Maclure Cooper, 10th Bengal Lancers, — 13th October, 1886.

Lieutenant Alexander Augustus Elphinstone Campbell, Derbyshire Regiment, Wing Officer, 25th Bengal Infantry, — 25th November, 1886.

Lieutenant John Munroe Smith, Norfolk Regiment, Company Wing Officer, 5th Goorahs Regiment, — 25th March, 1886.

FURLOUGH AND LEAVE.

No. 368.—The undermentioned officers have been granted extensions of furlough by the Secretary of State for India:—

Colonel R. M. Smith, R.E., (m. c.) for six months.

Captain F. W. St. G. Wolchman, Bengal S. C., (m. c.) for four months.

No. 369.—Deputy Assistant-Commissary and Honorary Lieutenant T. Lee, Commissariat Department, Transport Branch, is granted leave in India (m. c.) for 183 days, under rule XXV of the regulations of 1868, with effect from the 25th March, 1886.

LONDON GAZETTE.

No. 370.—The following extract is published for general information:—

"*London Gazette*," dated the 4th May, 1886, page 2129.

"WAR OFFICE;

Pall Mall; 4th May, 1886.

MEMORANDA.

* * * *

Deputy-Commissary and Honorary-Captain John McDermott, Bengal Establishment, to have the honorary rank of Major on retirement. Dated 2nd August, 1885.

Deputy Assistant-Commissary Alfred Wilken, Bombay Establishment, to have the honorary rank of Lieutenant. Dated 20th February, 1886."

PROMOTIONS.

No. 371.—The following promotions are made, subject to Her Majesty's approval:—

To be Colonel in the Army.

Lieutenant Colonel Charles Chester Sargeant, Madras S. C., — 31st May, 1886.

Bengal Staff Corps.

To be Major.

Captain Anneley John Garrett, — 29th May, 1886.

No. 372.—COMMISSARIAT DEPARTMENT—

Conductor Andrew Lattle to be Deputy-Assistant-Commissary, for services with the Afghan Boundary Commission, with effect from this date, subject to the provisions of Clause 48, India Army Circulars, 1884.

No. 373.—NATIVE ARMY—

14th Bengal Infantry.

Havildar Narayan Singh to be Jemadar, *vice* Jemadar Natha Singh, transferred to the Burmah Police, with effect from the 1st April, 1886.

39th Bengal Infantry.

Subadar Oum'd Ali, Bahadur, to be Subadar-Major, *vice* Subadar-Major Dhanni Ram, invalided, with effect from the 1st May, 1886.

No. 374.—VOLUNTEER CORPS—

Gowhaty Rifles.

Lieutenant Archibald Jerdon Mein to be Captain-Commandant.

MILITARY WORKS DEPARTMENT.

APPOINTMENTS.

No. 375.—In G. G. O. No. 294 of 1886, omit the words "*sub. pro tem.*," after the words Superintending Engineer, Class II.

PROMOTIONS.

No. 376.—With reference to G. G. O. No. 297 of 1886, the temporary promotion of Captain H. Appleton, R.E., to Executive Engineer, 4th Grade, is antedated to 7th January, 1886.

No. 377.—The following promotions are made in the Engineer Establishment of the Military Works Department, with effect from the dates specified:—

Names.	From	To	Nature of promotion	With effect from
Captain J. E. Dickie, R.E.	Assistant Engineer, 1st Grade	Executive Engineer, 4th Grade.	Temporary	3rd Mar., 1886.
Captain H. Barnett, R.E.	Assistant Engineer, 1st Grade	Executive Engineer, 4th Grade.	Temporary	4th Mar., 1886.
Major A. E. Ward, Bengal N. C.	Executive Engineer, 1st Grade, sub <i>pro tem</i> .	Executive Engineer, 1st Grade.	Permanent	13th April, 1886.
Captain S. Grant, R.E.	Executive Engineer, 2nd Grade, sub <i>pro tem</i> .	Executive Engineer, 2nd Grade.	Permanent	13th April, 1886.
Captain H. Finnis, R.E.	Executive Engineer, 4th Grade.	Executive Engineer, 3rd Grade.	Permanent	13th April, 1886.
Captain F. B. G. D'Aguiar, R.E.	Executive Engineer, 2nd Grade.	Executive Engineer, 1st Grade.	Sub <i>pro tem</i> .	13th April, 1886.
Captain E. Glennie, R.E.	Executive Engineer, 3rd Grade.	Executive Engineer, 2nd Grade.	Sub <i>pro tem</i> .	13th April, 1886.
Lieutenant A. D. G. Shelley, R.E.	Assistant Engineer, 2nd Grade.	Assistant Engineer, 1st Grade.	Permanent	16th April, 1886.

MARINE DEPARTMENT.

APPOINTMENTS.

No. 26.—Captain E. H. Fenn, Storekeeper, Bombay Dockyard, to be Port Officer, Akyab.

Captain J. S. Barrett, officiating Accountant, Kaddapore Dockyard, to be Storekeeper, Bombay Dockyard.

FURLOUGH AND LEAVE.

No. 27.—Captain P. J. Lalle, H. M.'s Indian Marine, Assistant Surveyor, 2nd Class, Marine

Survey of India, is granted furlough out of India for one year, under rule 1 of Marine Circular No. 16 of 1884.

RESIGNATIONS.

No. 28.—Mr. C. E. I. Monlounge, 3rd Grade Officer, H. M.'s Indian Marine, is permitted to resign the service.

E. H. H. COLLEN, *Lieut.-Colonel*,

Off. Secretary to the Government of India.

MILITARY DEPARTMENT.

NOTIFICATION.

Simla, the 4th June, 1886.

Under clause 26 of the Regulations appended to the Regimental Debts Act of 1863, it is notified that reports of the deaths of the undermentioned commissioned officers, on the dates specified, were received in the Military Department between the 22nd May and the 4th June, 1886.

Corps.	Rank and Names.	Date of Death.	Place of Death.	Time of Death.	Remarks.
Durham Light Infantry (Probationer to the General Staff Corps).	Lieutenant J. E. MacCurtie	14th May, 1886.	In Upper Punjab.	...	...
East Surrey Regiment	Lieutenant T. Grant	10th May, 1886.	Near Pondicherry, Madras.	...	...

E. H. H. COLLEN, *Lieut.-Colonel*,

Off. Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

NOTIFICATIONS.

Simla, the 31st May, 1886.

No. 131.—Mr. W. F. O'Donoghue is appointed Government Examiner of the Accounts of the Southern Mahratta Railway Company from the 1st May, 1886.

The 2nd June, 1886.

No. 142.—Mr. C. S. Harris is appointed to Class IV of the Superior Revenue Establish-

ment of State Railways, Stores Department, with effect from the 1st April, 1886.

Mr. Harris' services are placed at the disposal of the Director General of Railways.

No. 143.—The following is published for general information:—

The fifth authorized Edition of Volume I, Public Works Department Code, revised and corrected to 1st January, 1886, is now ready and available for issue, and copies can be obtained on application to the Superintendent, Government Printing, Calcutta.

Local authorities will receive, in the first instance, the number of copies indented for. If further demands arise, the Superintendent, Government Printing, Calcutta, should be addressed direct.

Copies for the personal use of the Officers of the Department, and copies required by the public, may be obtained from the Superintendent, Government Printing, on payment of Rs. 3 (packing and postage 6 annas) for ordinary copies, and Rs. 3-12 (packing and postage 10 annas) for interleaved copies.

The 3rd June, 1886.

No. 144.—Mr. G. A. James, Accountant, 1st Grade and Honorary Assistant Examiner, North-Western Provinces and Oudh, is appointed to officiate as Deputy Examiner of Telegraph Accounts.

TELEGRAPH.

The 4th June, 1886.

No. 145.—The Governor-General in Council is pleased, under the provisions of section 7, Act XIII of 1885, entitled "The Telegraph Act," to order the following Rules and Rates for Foreign Telegrams to have effect from the 1st July, 1886.—

RULES AND RATES

for

FOREIGN TELEGRAMS.

General.

Rule 1. The Government of India accepts no responsibility whatsoever in respect of Foreign Telegrams.

I.—Telegrams exchanged with places beyond Indian limits are subject to the regulations of the International Telegraph Convention for the time being in force.

CONTROL.

Rule 2. The Government of India reserves to itself the right of stopping any private telegrams which may appear dangerous to the security of the State, or may be contrary to the laws of the country, to public order or decency.

I.—Any intermediate Administration may stop the transmission of such a telegram on condition of immediately advising the Administration to which the original sending station belongs.

ACCEPTANCE OF TELEGRAMS.

Rule 3. Foreign telegrams are classified as follows:—

1st.—State or Government Telegrams.

I.—State telegrams can only be accepted from such officials as are specially authorized to telegraph beyond Indian limits.

II.—Telegrams from Consular Agents can only be accepted as State telegrams when they are addressed to a Government Official of one of the States contracting to the International Convention, and relate to the service of such contracting State.

2nd.—Private Telegrams.

Rule 4. Foreign telegrams may be written in ordinary language, in Code language, or in Cipher.

I.—Telegrams in Ordinary language must offer an intelligible sense throughout, in one of the languages admitted for international telegraphic correspondence by the contracting States, or in Latin.

II.—Telegrams in Code language (*i.e.*, those made up of words having each an *intrinse* meaning though not offering an intelligible sense throughout) must consist of recognized words of the German, English, Spanish, French, Italian, Dutch, Portuguese or Latin languages; any Code telegram may contain words taken from all or any of the above-mentioned languages. Proper names of every description are inadmissible in a Code telegram. (See also Rule 20, I.)

III.—Private Cipher telegrams must be composed of Arabic figures; groups of letters not forming words (except Trade Marks and letters added to figures to form ordinal numbers) cannot be accepted. State Cipher telegrams may be composed of figure or letter cipher.

Rule 5. Foreign telegrams must be legibly written in the Roman character or in Arabic numerals.

I.—The text of the telegram (if any) must be preceded by the address, which by previous arrangement between the addressee and the telegraph office, may be written in Code or abbreviated form. (See Rule 26, I.) In the absence of such an arrangement the address must contain all the information necessary to ensure the delivery of the telegram at its destination. The address of private telegrams ought always to be sufficiently clear to prevent the necessity for search or enquiry; for large towns it should comprise the name of the street and the number of the house, or, in default of these particulars, the profession of the addressee or some such information; for small towns the name of the addressee ought, if possible, to be accompanied by information sufficient to guide the office of delivery in case of any alteration in signalling the addressee's name. It is essential that the name of the country of destination be mentioned whenever any doubt on the subject is possible. Telegrams, the addresses of which do not contain these particulars, are nevertheless transmitted, but in all cases the sender must bear the consequences of insufficiency of address.

The address of a telegram to be conveyed beyond the telegraph lines is written as in the following example:—

"M. Muller, *Johannisthal, express (or post) Berlin.*" The name of the terminal telegraph office being always written last.

Every address must contain at least two words: the first representing the name of the addressee, the second indicating the name of the telegraph office of destination.

II.—It is optional with the sender to continue his telegram to the two words given in the address, *i.e.*, the telegram need not contain either text or name of the sender.

III.—Every telegram must be authenticated by the true signature of the sender: the sender of a private telegram can always be called upon to prove that the signature attached to it is genuine. Every interlineation, reticence, erasure, or addition of words, must be authenticated by the sender of a telegram or his representative.

SPECIAL FACILITIES.

Rule 6. The sender of a foreign telegram can give instructions relative to its delivery, acknowledgment, collation (*i.e.*, repetition), prepaid reply, &c.

I.—Such instructions must be written immediately before the address, and in French.

II.—If given in abbreviated form as under, they will be counted and charged for each as one word:—

French.	Abbreviated form.	English meaning.
Poste recommandée	PR.	Registered, postage prepaid.
Expres payé	NP.	Express charges prepaid.
Accusé de réception	CR.	Acknowledgment prepaid.
Telegramme collationné	TC.	Collation (repetition) prepaid.
Réponse payée	RP.	Reply paid.
Telegramme à faire suivre	FS.	Telegram to follow.
Telegramme remis ouvert	RO.	Telegram to be delivered open.

Rule 7. The sender can prescribe, free of charge, the route he wishes a foreign telegram to follow.

I.—The route to be followed should be indicated in writing on the telegram form in the space provided for the purpose.

II.—When the sender prescribes the route to be followed, his wishes are complied with, unless the route indicated be interrupted, in which case no objection can be raised to the selection of an alternative route.

III.—When no route is specified, the telegram is sent by the least expensive one. (See Rule 19.)

Rule 8. The sender can, on proving his identity, stop, if in time, the transmission of a foreign telegram.

I.—When the sender withdraws or stops his telegram before transmission has been commenced, the charges are returned to him after deducting a fee of 4 annas.

II.—If the telegram has been already transmitted, the sender's only means of cancelling it is by a *paid* (private) telegram addressed to the terminal office.

III.—The sender must pay also for a reply, if he desires to be informed by telegraph in what manner his request has been acted upon.

IV.—An office which receives a telegram requesting the suppression of another telegram, previously received, informs the original sending office by post in what manner the request has been acted upon, unless the sender has prepaid a reply by telegraph.

Rule 9. The sender of a foreign telegram can prepay the reply which he requests his correspondent to send. The amount deposited for the reply must not exceed the cost of an ordinary telegram of 30 words by the same route.

I.—If the sender writes before the address of the telegram and pays for the instruction "*Réponse payée*," or "R.P." (See *Rule 6, II*) it is assumed that a reply of 10 words is desired. Should the number of words for which a reply is prepaid be greater or less than ten, the sender must add to the instruction the number of words, thus:—"R. P. 15" (two words) or "*Réponse payée 15*" (three words).

II.—When a reply is prepaid, the office of delivery furnishes the addressee with an 'order' or 'pass,' current for six weeks only, authorizing the free despatch of a telegram to any destination up to the amount prepaid; if the addressee of a telegram received in India makes no use of this 'order,' he may, within six weeks of its receipt, send it to the *Government Telegraph Check Office, Calcutta*, with an application for refund of the amount which it represents.

III.—If the original telegram cannot be delivered within 8 days, or if the receiver formally refuses the order for the reply, the office of delivery informs the sender by a telegram, which indicates the cause of non-delivery and takes the place of the reply.

Rule 10. The sender of a foreign telegram can require that it be *collated* or *repeated*.

I.—To ensure a telegram being *repeated*, the word "*collationné*" or "T. C." (See *Rule 6, II*) should be written immediately before the address. In this case the different offices concerned in its transmission repeat it integrally, to ensure its correctness.

II.—The charge for repetition is equal to one-fourth the charge for the telegram.

Rule 11. The sender of a foreign telegram can require that a notice shall be telegraphed to him of the hour of its delivery.

I.—In order to obtain such an "acknowledgment," the sender should write the words "*Attente réception*" or "C. R." (See *Rule 6, II*) immediately before the address.

II.—If the telegram cannot be delivered, the terminal office intimates the fact and the reason by a *notice* telegram. The return telegram paid for by the sender is afterwards transmitted, either on delivery of the telegram, should that be found possible, or at the expiration of 24 hours in the contrary event.

III.—The charge for an "acknowledgment" is that for a single telegram of 10 words by the same route as that followed by the original telegram.

Rule 12. The sender of a foreign telegram can require that it shall be delivered open.

I.—To ensure a telegram being delivered at a given address without a cover, the sender should write the words "*Remise ouverte*" or "R. O." (See *Rule 6, II*) immediately before the address.

Rule 13. The sender of a foreign telegram can require that it shall follow the addressee to different addresses, if necessary, *within the limits of Europe*.

I.—To ensure a telegram so following the addressee, the notice "*Faire Suivre*" or "F. S." (See *Rule 6, II*) should be written immediately before the address, in which case the terminal office, after presenting it at the address given, transmits it immediately, if requisite, to any new address supplied at the residence of the addressee. If no new address is supplied, the telegram is kept in the office and its non-delivery reported. If the telegram be retransmitted, and the second office cannot find the addressee, the telegram is retained by that office.

II.—If the notice "*Faire Suivre*" is accompanied by successive addresses, the telegram is successively transmitted to each, if necessary, and the last office transmits it in accordance with the regulations of the preceding paragraph.

III.—The charge for a telegram "*Faire Suivre*" to be levied from the sender is simply the charge to the first terminal office, all the addresses entering into the number of words charged for. The supplementary charge is recovered from the addressee.

Rule 14. Any person, by explaining the necessity, can request that foreign telegrams, which may arrive at a telegraph office to be delivered to him within the radius of delivery of that office, be re-transmitted, in conformity with the conditions of the preceding paragraphs to the address which he furnishes; this request must be made in writing.

Rule 15. The sender or the addressee of a foreign telegram can require the Telegraph Office to obtain repetition of such words as may appear to him to be doubtful.*

I.—In the case of the sender, he must, within 72 hours of the despatch of his telegram, deposit the cost of a telegram containing the words he wishes to be repeated, as well as the cost of a reply, should he require one.

II.—In the case of the addressee, he must, within 72 hours of receipt of the telegram, deposit the cost of a telegram calling for repetition of the doubtful words, and the cost of the reply.

III.—The sums so deposited will be refunded in full on application to the *Government Telegraph Check Office, Calcutta*, should the repetition show that the word or words so repeated had originally been incorrectly transmitted.

IV.—If, however, the repetition should show that one or more of the words, repetition of which had been demanded, had not, in the first instance, been incorrectly transmitted, the cost of the additional number of words necessitated by such unnecessary repetition, both in the call for repetition and in the reply, will not be refunded.

V.—Every rectifying and completing telegram and generally every communication exchanged between two Telegraph Offices at the request of either the sender or receiver, relative to a telegram already transmitted or in course of transmission, is classed, treated and charged for as a private telegram.

Rule 16. Foreign telegrams may be multiple, that is, addressed to several persons in the same place, or to the same person at several residences in the same place.

I.—In the last case, each copy of the telegram bears only its own address, unless the sender requests the contrary, in which case the repeat must be entered after the address, and will be charged for.

II.—A telegram addressed to several persons in the same locality, or to one person at several places of residence in the same locality (whether with or without transmission by post), is charged for as a single telegram; but a copying fee of 4 annas per 100 words, plus 4 annas for the excess, is charged for each destination after the first.

III.—Multiple telegrams cannot be accepted for places in the United States.

Rule 17. In applying the preceding rules, the facilities given to the public for prepayment of replies or acknowledgments, collation (*i.e.*, repetition) of telegrams, telegrams to follow or multiple telegrams can be combined, subject to the conditions of Rule 6, with the exception that a "Multiple Telegram" cannot also be "Reply Paid" (R.P.).

PAYMENT.

Rule 18. The charges on foreign telegrams are prepaid by the sender.

I.—The following are, however, exceptions, and are recovered from the receiver:

1st.—The charge for telegrams sent from sea by semaphore.

2nd.—The supplementary charge for onward transmission of telegrams "*à faire Suivre*" (*Faire Suivre*).

3rd.—The expense of transport beyond the telegraph lines by quicker means than the post in States where such service is organized.

* Under this rule no refunds are made for any rectifying or completing telegram exchanged direct between the sender and receiver.

IV.—If, in consequence of inaccuracy or insufficiency of address, or the absence or refusal of the addressee, the expenses of a special messenger are not paid on arrival, the costs incurred are specified in the advice of non-delivery or refusal, and are recoverable from the sender.

V.—On payment of a fee of ten rupees per annum, or of fifty rupees for all time, any person expecting to receive telegrams may register an abbreviated address at any Government Telegraph Office. (See also Rule 5, I.)

VI.—Every telegram which has to be transmitted to its destination by post, or deposited "*poste restante*" is posted as an unregistered letter by the office of delivery, without extra charge either to the sender or addressee, except in the following cases:—

- (a). Telegrams which have to be transmitted to destination by sea post, either in consequence of interruption to a submarine line, or by reason of being addressed to a country not connected with the International Telegraph system, are subject to a charge for postage payable by the sender.*
- (b). Telegrams transmitted to an office situated near a frontier, to be delivered by post in the neighbouring territory, are posted as unpaid letters, and the postage is payable by the addressee.
- (c). Telegrams which it is desired should be delivered by inland post, or deposited "*poste restante*" as registered letters, are subject to a charge of 4 annas, payable by the sender. Such telegrams should bear the official instructions "*poste recommandée*" or "*P.R.*" (See Rule 6, I.)

RECORDS.

Rule 27. The sender or addressee after proving his identity, or the authorized attorney of either, has a right to be furnished with certified true copies of foreign telegrams sent or received by him.

I.—This right is contingent on the exact date and description of the telegram to which the request refers, being mentioned, and ceases after the expiration of 18 months from the date of the telegram, as the originals and copies of telegrams are only preserved for that period.

II.—For every such copy, a fee of 4 annas per 100 words, or fraction of 100 words, is payable.

REFUNDS.

Rule 28. The sender of a foreign telegram may claim a refund from the administration to which he tendered it, of the full cost of—

1st.—*Any* telegram which has suffered a serious delay in transmission.

I.—In case of delay, the claim for reimbursement is absolute if the telegram did not reach its destination sooner than it would have done by post, or if the delay exceeds 6 days.

II.—In case of interruption on a submarine line, the sender of any telegram has a right to a refund of the portion of the charge belonging to the distance not traversed, deduction being made, if necessary, of the expense incurred in sending the telegram by any other mode of transport.

2ndly.—*Any* telegram which has not been delivered.

I.—In the case of non-delivery it must be shown to have resulted from the fault of the Telegraph Service; no refund is claimable if the address be inaccurate. (See Rule 4, I.)

II.—The charges on telegrams stopped in transit under the operation of Rule 2 are returned to the sender.

3rdly.—Words lost in the transmission of an "*uncollated*" (i.e., not a repeated) telegram.

I.—Unless the omission shall have been rectified under the facilities offered by Rule 15.

4thly.—A "*collated*" (repeated) telegram which in consequence of errors in its transmission has manifestly been unable to fulfil its object.

I.—No refund is given for errors made in transmission of "*uncollated*" telegrams.

Rule 29. Every claim for a refund in respect of a foreign telegram should be made under penalty of rejection, within six months of the date of the telegram, and should be addressed to the *Check Office, Government Telegraph Department, Calcutta.*

I.—Claims for refund should be supported as follows:—In case of non-delivery by a written statement from the terminal office or addressee, and proof of the registration of the address.

* On telegrams from India addressed to places out of India, which are to be posted from an Indian sea port to a destination, the sender also prepays a postage and registration fee of 8 annas.

if the latter was an abbreviated one: in case of mutilation or delay, by the copy actually delivered to the addressee and by a certificate stating that in consequence of the errors complained of, the telegram failed to fulfil its object. The particular errors which led to the result should also be specially mentioned.

II.—When a claim is admitted to be well founded by the Administration in fault the refund is made to the sender by the *Check Office.*

III.—If the sender does not reside in the country when he deposited his telegram for transmission, he can have his claim forwarded to the original Administration through the medium of another Administration. In this case, if it becomes evident on investigation that the claim is well founded, the latter is deposited to make the refund.

IV.—A complaint regarding a telegram received in India may, if the addressee chooses, be addressed to the *Government Telegraph Check Office, Calcutta*, which, if possible, disposes of it; otherwise, it is returned to be presented at the Office of Origin.

V.—Complaints are not forwarded when the fault complained of does not give the sender a claim to refund, or has resulted from an omission or irregularity on his part.

VI.—The refund rules apply only to the cost of the actual telegram, lost, delayed, or mutilated, and not to the cost of any further correspondence caused or rendered useless by such loss, delay, or mutilation.

VII.—Except in the case of the exception mentioned in Rule 15, III, the refund rules do not apply to telegrams which pass over the lines of States which have not joined the International Convention or of other Administrations which do not observe its regulations.

No. 146.—The Governor General in Council is pleased, under the provisions of Section 7, Act XIII of 1885, entitled "*The Telegraph Act*," to order the following Rules and Rates for Inland Telegrams to have effect from the 1st July, 1886.—

RULES AND RATES FOR INLAND TELEGRAMS.

GENERAL.

Rule 1.—The accuracy of telegrams is not guaranteed, and the sender and receiver must accept all risks arising from non-delivery, errors, or delays.

Rule 2.—Telegraph Offices in India are distinguished as follows:—

(a) Government Telegraph Offices—

These include the Telegraph Departmental Offices and Postal combined Offices.

(b) Railway Telegraph Offices—

These include State Railway Offices and Railway Offices not the property of the State which are licensed for working under section 4, Act XIII of 1885. Under this head are also included Telegraph Offices on Canals.

I.—Telegrams are accepted at all Government Telegraph Offices during the hours they are open for business according to their classification notified in the list of offices published in the Telegraph Guide.

II.—Telegraph Offices of the 1st class are open day and night.

III.—Telegraph Offices of the 2nd class are open 14 hours daily, or from 7 A.M. to 9 P.M. (local time), except on Sundays, Christmas-day, New Year's-day, Good Friday, and the Queen's Birthday, when they are open only from 7 to 9 A.M. and from 1 P.M. to 6 P.M. These hours are subject to modification to suit local requirements.

IV.—Telegraph Offices of the 3rd class are open about seven hours daily, and usually from 10 A.M. to 5 P.M. (local time), except on Sunday, Christmas-day, New Year's-day, Good Friday, and the Queen's Birthday, when they are open only from 7 to 10 A.M. and 1 to 6 P.M. These hours are subject to modification to suit local requirements.

V.—In cases of fire and death, or of extraordinary emergency, an "*urgent*" telegram can be sent from any office at any time.

VI.—Railway Telegraph Offices accept telegrams at such hours as they may be open for business, but always subject to the necessities of Railway traffic.

Rule 3.—Telegrams are accepted at all Post Offices.

I.—Post Offices in Telegraph connection with Telegraph Offices are called "Postal combined Offices."

II.—Post Offices, not in Telegraph connection with Telegraph Offices, receive Telegrams and dispatch them by post to a Telegraph Office and are called "Postal Receiving Offices." Such telegrams are sent "registered" and "postage free" by first post.

Rule 4.—Telegrams may also be posted to the nearest Telegraph Office, together with telegraph or postage stamps sufficient for their payment, and in this case a receipt for the amount will be returned post free to the sender.

I.—In the case of a telegram sent by post to a Telegraph Office without telegraph stamps, the excess charge will be recovered from the addressee.

Rule 5.—A telegram can be sent from any Government Telegraph Office to any Railway Telegraph Office, or vice versa, without additional charge.

Rule 6.—Telegrams can be addressed to places where there are no Telegraph Offices.

I.—In such cases the sender must state from what Telegraph Office delivery is to be required.

Example.—"To Singhpore, Post Bag No. 3."

The extra words "Post Bag No. 3" form part of the address and are therefore sent free of charge.

II.—No charge will be made for ordinary *Indian Post* or registration on a telegram addressed to a place in India where there is no Telegraph Office, but in the case of telegrams which have to be posted in India to places beyond Indian limits, either a transit and local charge is charged to cover the postage and registration fees.

Rule 7.—All telegrams must be legibly written in the Roman character or in Arabic numerals. Subject to the above limitation, telegrams may be sent in the vernacular, or any foreign language, or in cipher if written in Arabic numerals.

I.—Telegrams may be sent by post to all Telegraph and Post Offices.

II.—At Telegraph and Postal Offices, where other than the ordinary charge is levied, the sender must be informed of the amount of the charge, and the telegrams must be addressed to them in full.

III.—The body of the telegram must be preceded by the address, and must be legible.

IV.—The telegram must be enclosed in a separate envelope, and the envelope must be sealed.

V.—The sender of a telegram must be prepared to pay the charges, and must be prepared to prove that the telegram is genuine.

VI.—Every telegram must be signed by the sender, or by a person authorized by him to do so.

Rule 8.—No telegram or telegram of more than two hundred words can be sent at any one time by any private individual or firm, and no telegram by the same individual or firm till after the lapse of three hours, unless the telegraph lines be free of all other traffic.

Rule 9.—Telegraph offices are required to refuse to transmit a telegram which may be of a decidedly objectionable or alarming character. Should the character of a telegram be open to doubt, the matter shall be referred to a Secretary to Government if the telegram be tendered at a seat of Government, or to the chief civil or military officer if tendered at another place.

CHARGES.

Rule 10.—There are 3 classes of telegrams, urgent, ordinary, deferred, and the following are the rates of charge for State and Private Telegrams between any two offices in India:—

	Urgent.		Ordinary.		Deferred.	
	R.	A.	R.	A.	R.	A.
First 5 words or groups	2	0	1	0	0	8
Each additional word or group	0	4	0	2	0	1

I.—Urgent telegrams are sent by first train in day and have the right of precedence over ordinary telegrams, and of special delivery at destination.

II.—"Ordinary" telegrams are sent by first train after urgent telegrams, and are delivered by day messengers between day-hours and by night messengers.

III.—"Deferred" telegrams are transmitted when the lines are clear of urgent and ordinary telegrams, and are usually delivered by post.

IV.—No charge is made for the transmission of the address.

V.—The "address" in telegrams is the name of the place from and to which the telegram is to be delivered, the actual names or designations of the sender and addressee, and the latter's address. Necessary and correct transmission of address paid for in part of the body of the telegram, and Telegraph offices are authorized to erase from the address any words which are not essential to the correct delivery of the telegram.

VI.—If the sender of a telegram desires his own address to be telegraphed, it must be paid for.

VII.—The address must contain all the information necessary to ensure the delivery of the telegram at its destination, and the sender in all cases supports the consequences of insufficiency of address. After the telegram is once despatched, it cannot be recalled, completed, nor rectified, except by the despatch of a fresh paid telegram.

VIII.—With the exception specified in clause XIV of this rule, all charges on telegrams must be prepaid in the following manner:—

(a) At Government Telegraph Departmental Offices in telegraph stamps only.

(b) At Postal combined Offices in telegraph stamps or postage stamps at the option of the sender.

(c) At Postal Receiving Offices in telegraph stamps or postage stamps or in cash at the option of the sender.

(d) At Railway Telegraph Offices in telegraph stamps at the option of the sender.

(e) Telegrams sent by post to any Telegraph Office from a place where there is no Telegraph Office may be paid for in telegraph stamps or postage stamps.

IX.—Telegrams may be paid for in advance, the object being that the sender will be relieved of the responsibility of the telegram, and the sender will be relieved of the responsibility of the telegram, and the sender will be relieved of the responsibility of the telegram as a condition of the telegram being paid for in advance.

X.—The value of telegrams sent by telegraph is determined by the number of words in the telegram, the lower limit being 5 words, and the upper limit being 100 words, and the value of the telegram is determined by the number of words in the telegram, and the value of the telegram is determined by the number of words in the telegram.

XI.—Telegrams which have been cut in two, before being sent to a Telegraph Office, or in any way defaced, damaged, or altered, must not be accepted.

XII.—The value of telegrams sent by telegraph is determined by the number of words in the telegram, the lower limit being 5 words, and the upper limit being 100 words, and the value of the telegram is determined by the number of words in the telegram, and the value of the telegram is determined by the number of words in the telegram.

XIII.—The charges for telegrams are not given at "Postal combined" or "Railway" Telegraph Offices.

XIV.—Telegrams are not "bearing" from sea-ports when received for despatch by mail carriers or other vessels; but such telegrams, whether "prepaid" or "bearing", will be transmitted until the name of the vessel from which they are received is known at the Telegraph Office. Bearing telegrams will not be delivered to the addressees until full payment has been obtained.

APPLICATION OF CHARGES.

Rule 11.—The maximum length of a word is fixed at six syllables. The excess is counted as a word.

Rule 12.—Telegrams must not contain any unusual combinations, abbreviations, or constructions.

- (b) Those on the service of certain Foreign Governments regarding which the Government of India defines special rules in each case.

11. - If the copy was received in duplicate, then to hear only the address of the copy that has been made to be delivered, he should deliver it to the person who has been separated from it, to avoid the possibility of confusion. On the other hand, he should not make the copy that has been made aware to who it is intended to be delivered, but he should be addressed, he should deliver it to the person who has been separated from it. In the case of a copy that has been made, it will be assumed that he works only on the address to appear on each copy. In either case these instructions are not changed for,

REPETITION.

Rule 20.—The sender of any telegram can, by writing the word "Repetition" alter the text of his telegram (but separated from it), require that it be repeated; the charge for repeating is equal to one-fourth the charge for the message.

- I.—In this case the different offices employed in its transmission repeat it back to each other.
- II.—A repeated telegram is indicated by the word "repeated," which, to insure the greatest accuracy, is telegraphed (first both in the telegraphic instructions and as the first word of the text of the telegram).

OPEN DELIVERY.

Rule 21.—If the sender desires his telegram to be delivered open, he is to write the words "Deliver open" after the text of his telegram (but separated from it).

CANCELLATION.

Rule 22.—If the sender of an inland telegram wishes to cancel it before transmission has commenced, he can do so; but the charges upon it will not be returned when once the stamps are obliterated.

- I.—If the telegram, in course of transmission, or has already been despatched, it can only be cancelled by a paid telegram from the sender to the terminal office.
- II.—If, in addition, the sender wishes to be informed by telegraph in what manner his request has been acted upon, he must deposit the cost of the return telegram.

CERTIFIED COPIES.

Rule 23.—The sender and receiver have a right to be furnished with certified copies of any telegrams sent or received by them. A fee of four annas per hundred words or fraction of one hundred words is payable for every copy furnished.

- I.—Within three days of despatch or receipt copies can be given by the Telegraph Office concerned, but after that period applications for copies must be made to the Telegraph Check Office, Calcutta.
- II.—Applications for copies must be made within four months of the date of the telegram. At the expiration of that period originals and copies of all telegrams are destroyed.

PRESERVATION.

Rule 24.—Application may be made by an interested party to the Government Telegraph Check Office for the preservation of specified telegrams exchanged between other persons on the ground of pending or contemplated judicial proceedings. Such application must be made within four months of the dates of the telegrams, and such telegrams will then be preserved for a further period of four months, at the expiration of which time they will, in default of a renewed application, be destroyed.

- I.—It must be understood that the duty of the Telegraph Department in the matter is confined to making the search and preserving the telegrams if found. No information as to the result of the search will be furnished, and any telegrams answering the description given which may be found will only be produced on the order of a competent court of law or other competent authority.

Rule 25.—Should the particulars furnished be insufficient to enable the Check Office to at once trace the telegrams, applied for under either Rule 23 or Rule 24, the cost of searching for

them must be deposited by the applicant. A fee of one rupee is charged for searching through the telegrams of any Telegraph Office for one day; thus, if it be required to examine the telegrams of two Telegraph Offices over a period of five days, the searching fee will be ten rupees.

DELIVERY.

Rule 26.—Telegrams are delivered free of charge within five miles of a Telegraph Office. "Deferred" telegrams are usually delivered through the Post Office of the place of destination.

- I.—Beyond the free delivery radius distance telegrams will be sent by post without charge, or by such other means as the sender may arrange and pay for.
- II.—Should the addressee of a telegram have left the place to which it is addressed, it will, if returned unopened with definite instructions as to the new address, be retransmitted without extra charge.
- III.—The messenger who delivers a telegram may be detained with the reply, provided he be not detained for this purpose more than five minutes. The text of the reply having been given to the messenger, and the amount paid to him, should be mentioned on the receipt given for the original telegram.

REGISTERED ADDRESSES.

Rule 27.—Any firm or individual expecting to receive inland or foreign telegrams can register an abbreviated address at the Government Telegraph Office from which such telegrams have to be delivered. The fee for registration of each abbreviated address is Rs. 10 per annum, payable in advance on the 1st January in each year, or Rs. 5 for all time with a fine of Rs. 5 for every change of address.

- I.—Abbreviated addresses are considered confidential.
- II.—No abbreviated address can be accepted which has already been registered locally by another firm or individual.
- III.—The Government Telegraph Department accepts no responsibility in respect of the delivery of any telegram having an abbreviated address if such address has not been registered.

REFUNDS.

Rule 28.—If an 'ordinary' or 'urgent' private telegram be not delivered, or be subjected to serious delay through the fault of any Telegraph Administration in India, the whole charge made for it will be returned to the sender.

Rule 29.—If an 'ordinary' or 'urgent' private telegram be delivered wholly or partially in an unintelligible state, a refund will be made only when the extra charge for 'repetition' has been paid by the sender.

Rule 30.—No refund will under any circumstances be made for a State telegram of any class or for a 'deferred' private telegram.

- I.—Applications for refunds, as to all complaints respecting telegrams, should be addressed to the Telegraph Check Office, Calcutta. Such claims for refund must be made within one month from the date of the telegram; but this period is extended to two months in the case of a 'repeated' telegram, or of a telegram for which a 'Reply' or an 'Advice of Delivery' has been prepared.
- II.—When no doubt exists as to an overcharge having been made on an inland telegram by the mistake of an official at any Telegraph Office, such overcharge is to be at once refunded by such Office.

CLEAR LINE TELEGRAMS.

Rule 31.—On emergent occasions of great importance, the public functionaries named below have the power to 'clear the line,' that is, to suspend the receipt and despatch of all messages until the one for which the line is 'cleared' is passed on:—

- (1) The Governor General of India.
- (2) The Governors of Madras and Bombay.
- (3) Commanders-in-Chief, India, Madras, and Bombay.
- (4) Lieutenant-Governors of Bengal and the Punjab, Lieutenant-Governor of North-Western Provinces and Chief Commissioner of Oudh.
- (5) Secretaries to the Government of India.
- (6) Secretaries to the Governments of Madras, Bombay, Bengal, North-Western Provinces, and Punjab.
- (7) Chief Commissioners of the Central Provinces, British Burma, and Assam.
- (8) Agents to the Governor General, Rajputana, Central India, and Baluchistan.
- (9) Commissioners of Sind and Peshawar.
- (10) The Residents at Hyderabad (Deccan) and Mysore.
- (11) The Maharaja of Patiala, from the Patiala Office only.
- (12) Director General of Telegraphs in India.

The telegrams so sent are, however, to be paid for as other State 'urgent' telegrams.

PRESS TELEGRAMS.

Rule 32.—The following are the rates charged for press telegrams:—

	First 32 words or groups of three figures	Every 4 additional words or group of three figures.	Remarks.
	Rs. A.	Rs. A.	
<i>Urgent—</i>	2 0	0 4	Between any two Government Telegraph Offices in India.
<i>Ordinary—</i>	1 0	0 2	
<i>Deferred—</i>	0 8	0 1	

Rule 33.—A press telegram to be accepted at press rates must fulfil the following conditions:—

- I.—It must be addressed to a newspaper, the name of which is contained in the Telegraph Department list of registered newspapers. (Applications for the registration of newspapers should be made on forms to be obtained at Government Telegraph Department Signal offices.)

II.—It must be addressed to the newspaper in accordance with its registered title and to the town at which the newspaper is registered as being printed and published.

III.—It must, except as provided hereafter in condition (V), contain only intelligence which is clearly intended for publication in the strict sense of the term, and must not contain commercial news of any kind.

IV.—It must be written in the English language.

V.—It may also be a telegram sent from or to the newspaper by its registered title (but not in the name of the editor, publisher, manager, or any other person) to or from its correspondents or employes on the subject of a telegram published or to be published or to an official of the Government Telegraph Department on matters of press business.

VI.—If a press telegram be addressed to the editor, publisher, manager, or any other person connected with the newspaper by name or person, it is chargeable at the full inland rates (see condition II).

VII.—Whenever demanded, a copy of every newspaper in which a press telegram is published must be furnished to the telegraph office, from which that press telegram was delivered.

VIII.—A single press telegram must not exceed 250 words (8 units of charge). Long news messages must be broken up into separate telegrams, all of which must be numbered and each of which, except the last, must contain the words "more to follow." These words and the numbers are to be written by the sender in the space left in the telegram form for "official instructions," and they will not be charged for.

Example.—A long news message of 1,000 words would require at least 4 telegrams numbered, in the space set apart of "official instructions," 1, 2, 3 and 4, and numbers 1, 2, 3 would also bear the words "more to follow" in the official instructions.

Rule 34.—The Press Telegram rates apply only to telegrams which satisfy all the conditions of Rule 33, and any subsequent claim made by the Government Telegraph Department for the difference between press and full inland rates must be satisfied immediately on demand.

Rule 35.—Press Telegrams may be accepted "Bearing" from correspondents, provided that any newspaper, which may desire the facility, obtain previous special sanction from the Director General of Telegraphs.

Rule 36.—The Press Telegram Rules do not apply to Railway Telegraph systems.

W. S. TREVOR, Colonel,
Secretary to the Government of India.



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PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 5, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th May, 1886, and was referred to a Select Committee—

NO. 6 OF 1886.

THE INDIAN BANKRUPTCY BILL, 1886.

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THE FIRST SCHEDULE.—MEETINGS OF CREDITORS.

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A Bill to Amend and consolidate the Law of Bankruptcy and Insolvency in British India.

WHEREAS it is expedient to amend and consolidate the law relating to bankruptcy and insolvency; It is hereby enacted as follows:—

Preliminary.

Short title, extent and commencement.

- 1. (1) This Act may be cited as the Indian Bankruptcy Act, 1886.

(2) It shall extend to the whole of British India, and shall apply to all British subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, whether in the service of the Government of India or otherwise, and to all Native Indian subjects of Her Majesty in any place beyond the limits of British India.

(3) It shall, except as by this section otherwise provided, come into force on such date as the Governor-General in Council may, by notification in the official Gazette, fix in this behalf, which date is in this Act referred to as the commencement of this Act.

(4) Any power conferred by this Act to make rules may be exercised at any time after the passing of this Act; but a rule so made shall not take effect till the commencement of this Act.

PART I.

PROCEEDINGS FROM ACT OF BANKRUPTCY TO DISCHARGE.

Acts of Bankruptcy.

- 2. (1) A debtor commits an act of bankruptcy in each of the following cases:—

(a) if in British India or elsewhere he makes a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors generally;

(b) if in British India or elsewhere he makes a fraudulent conveyance, gift, delivery or transfer of his property, or of any part thereof;

(c) if in British India or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon, which would, under this or any other enactment for the time being in force, be void as a fraudulent preference if he were adjudged bankrupt;

(d) if with intent to defeat or delay his creditors he does any of the following things, namely, departs out of British India, or,

*The Indian Bankruptcy Bill, 1886.**(Part I.—Proceedings from Act of Bankruptcy to Discharge.—Sections 3-6.)*

being out of British India, remains out of British India, or departs from his dwelling-house, or otherwise absents himself, or begins to keep house, or closes his place of business, or suffers himself to be arrested or taken in execution for a debt not due, or submits collusively or fraudulently to an adverse decree, or procures himself, or his property, moveable or immoveable, to be attached or taken in execution;

- (e) if he files in the Court a declaration of his inability to pay his debts or presents a bankruptcy petition against himself;
- (f) if he gives notice that he has suspended, or that he is about to suspend, payment of his debts;
- (g) if he makes to any of his creditors an offer of a composition in satisfaction of any of his debts, or a proposal for a scheme of arrangement of his affairs;
- (h) if he is imprisoned in execution of a decree or order of a Civil Court for a longer period than twenty-one days for making default in payment of a sum of money.

Receiving Order.

3. Subject to the conditions specified in this Act, if a debtor has committed an act of bankruptcy, the Court may, on a bankruptcy petition being presented either by a creditor or by the debtor, make an order, in this Act called a receiving order, for the protection of the estate.

4. (1) The Court shall not have jurisdiction to make a receiving order unless—

- (a) the debtor is, at the time of the presentation of the bankruptcy petition, in prison within the local limits of the jurisdiction of the Court, under an order of a Civil Court, for making default in payment of a sum of money; or
- (b) the debtor, or, if he is a member of a firm, his partner or one of his partners, has, within a year before the date of the presentation of the bankruptcy petition, ordinarily resided or had a dwelling-house or place of business within those limits;

Provided as follows:—

- (i) in any case where an application for declaring a debtor insolvent has been made under section 344 of the Code of Civil Procedure to any Court subordinate to the Court, and the Court is of opinion that the proceedings may be more advantageously conducted before itself and under this Act, the Court, on the application of the debtor or of any of his creditors, or of its own motion, may withdraw the proceedings from the subordinate Court, if competent so to do under its Letters Patent or section 25 of the Code of Civil Procedure, and may then make a receiving order under this Act in supersession of all or any of the proceedings which may have been previously taken under the said Code;
- (ii) the Court may in any prescribed class of cases make a receiving order on a bankruptcy petition notwithstanding the restrictions imposed by clauses (a) and (b) of this sub-section.

(2) The application of the provisions of this Act to a case withdrawn under proviso (i) to sub-section (1) shall be subject to such modifications, if any, of those provisions as may be prescribed.

5. (1) A creditor shall not be entitled to present a bankruptcy petition against a debtor unless—

- (a) the debt owing by the debtor to the petitioning creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors, amounts to five hundred rupees; and
- (b) the debt is a liquidated sum, payable either immediately or at some certain future time; and
- (c) the act of bankruptcy on which the petition is grounded has occurred within three months before the presentation of the petition.

(2) If the petitioning creditor is a secured creditor, he must in his petition either state that he is willing to give up his security for the benefit of the creditors in the event of the debtor being adjudged bankrupt, or give an estimate of the value of his security. In the latter case he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him, after deducting the value so estimated, in the same manner as if he were an unsecured creditor.

6. (1) A creditor's petition shall be verified by affidavit of the creditor, or of some person on his behalf having knowledge of the facts, and be served in the prescribed manner.

(2) At the hearing the Court shall require proof of—

- (a) the debt of the petitioning creditor,
- (b) the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, some one of the alleged acts of bankruptcy, and,
- (c) if the debtor does not appear, the service of the petition;

and, if satisfied with the proof, may make a receiving order in pursuance of the petition.

(3) If the Court is not satisfied with the proof of the petitioning creditor's debt, or of the act of bankruptcy, or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts, or that for other sufficient cause no order ought to be made, the Court may dismiss the petition.

(4) Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the Court, on such security (if any) being given as the Court may require for payment to the petitioner of any debt which may be established against the debtor in due course of law, and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.

(5) Where proceedings are stayed, the Court may, if by reason of the delay caused by the stay of proceedings or for any other cause it thinks just, make a receiving order on the petition of some other creditor, and shall thereupon dismiss,

[11 & 12 Vic.,
c. 21, s. 9.]

[L. R. 13
Q. B. D. C. A.
471, and
Law Journal,
September
21st, 1885.]

[40 & 47 Vic.,
c. 52, s. 6.]

[16 & 47 Vic.,
c. 52, s. 6 (1),
clause (d).]

[11 & 12 Vic.
c. 21, ss. 8 &
9.
46 & 47 Vic.,
c. 52, s. 6.]

[11 & 12 Vic.,
c. 21, s. 10.]

[46 & 47 Vic.,
c. 52, s. 7.]

IV of 1882

of 1882.

*The Indian Bankruptcy Bill, 1886.**(Part I.—Proceedings from Act of Bankruptcy to Discharge.—Sections 7-14.)*

on such terms as it thinks just, the petition on which proceedings have been stayed as aforesaid.

(6) A creditor's petition shall not, after presentment, be withdrawn without the leave of the Court.

11 & 12 Vic.,
21, s. 5
G & 47 Vic.,
52, s. 8.] **7. (1)** A debtor's petition shall allege that the debtor is unable to pay his debts, and the presentation thereof shall be deemed an act of bankruptcy without the previous filing by the debtor of any declaration of inability to pay his debts; and, if the debtor proves that he is entitled to present the petition, the Court shall thereupon make a receiving order, unless, in its opinion, the proceedings ought to have been taken before some other Court having jurisdiction under this Act.

(2) A debtor's petition shall not, after presentment, be withdrawn without the leave of the Court.

11 & 12 Vic.,
21, ss. 13 &
9
G & 47 Vic.,
52, s. 9.] **8. (1)** On the making of a receiving order the official assignee shall be thereby constituted receiver of the property of the debtor, and the debtor, if in prison, shall be released, and thereafter, except as directed by this Act, no creditor to whom the debtor is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the debtor in respect of the debt, or shall commence any suit or other legal proceeding unless with the leave of the Court and on such terms as the Court may impose.

(2) But this section shall not affect the power of any secured creditor to realize or otherwise deal with his security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed.

11 & 12 Vic.,
21, s. 10,
G & 67 Vic.,
52, s. 10.] **9. (1)** The Court may, if it is shown to be necessary for the protection of the estate at any time after the presentation of a bankruptcy petition and before a receiving order is made, appoint the official assignee to be interim receiver of the property of the debtor, or of any part thereof, and direct him to take immediate possession thereof or of any part thereof.

(2) The Court may at any time after the presentation of a bankruptcy petition stay any suit or other legal proceeding pending before any Judge or Judges of the Court or in any other Court in British India against the property or person of the debtor, and any Court in which proceedings are pending against a debtor may, on proof that a bankruptcy petition has been presented by or against the debtor, either stay the proceedings or allow them to continue on such terms as it may think just.

[46 & 47 Vic.,
52, s. 11.] **10.** Where the Court makes an order staying any suit or other legal proceeding, or staying proceedings generally, the order may be served by sending a copy thereof, under the seal of the Court, by prepaid letter addressed to the Court before which the proceeding is pending and registered under Part III of the Indian Post

[XIV of 1866.] Office Act, 1866.

[46 & 47 Vic.,
52, s. 12.] **11. (1)** If in any case the official assignee, having regard to the nature of the debtor's estate or business or to the interests of the

creditors generally, is of opinion that a special manager of the estate or business other than the official assignee ought to be appointed, he may appoint a manager thereof accordingly to act until the property vests in the official assignee, or, if a special assignee is appointed as hereinafter provided, until that appointment takes effect, and to have such powers of the official assignee as may be entrusted to him by the official assignee.

(2) The debtor may be appointed special manager.

(3) The special manager shall give security and furnish accounts in such manner as the official assignee, subject to the control of the Court, may direct, and shall receive such remuneration as the official assignee may, within limits prescribed and subject to that control, determine.

12. Notice of every receiving order, stating the name, address and description of the debtor, the date of the order, the Court by which the order is made and the date of the petition, shall be published in the prescribed manner.

13. If in any case where a receiving order has been made on a bankruptcy petition it appears to the Court by which the order was made, upon an application by the official assignee, or by any creditor or other person interested, that by reason of the residence of the majority of the creditors in number or value, or the situation of the property of the debtor, in some part of British India or of Her Majesty's dominions elsewhere, beyond the limits within which the Court ordinarily exercises civil jurisdiction, or from any other cause, his estate and effects ought to be administered by some other Court having jurisdiction under this Act or under the Bankruptcy or Insolvency Laws of some other part of Her Majesty's dominions, the Court, after such enquiry as to it may seem fit, may rescind the receiving order and stay all proceedings on, or dismiss, the petition, upon such terms, if any, as the Court may think fit.

Proceedings consequent on Order.

14. (1) When a receiving order is made against a debtor, he shall prepare a statement of his affairs, and submit to the official assignee a statement of and in relation to his affairs in the prescribed form, verified by affidavit, and showing the particulars of the debtor's assets, debts and liabilities, the names, residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the official assignee may require.

(2) The statement shall be submitted within the following times, namely:—

- (i) if the order is made on the petition of the debtor, within seven days from the date of the order;
- (ii) if the order is made on the petition of a creditor, within fourteen days from the date of the order.

But the Court may, in either case, for special reasons, extend the time.

(3) If the debtor fails to comply with the requirements of this section, the official assignee may, at the expense of the estate, cause a statement of affairs to be prepared in manner prescribed,

*The Indian Bankruptcy Bill, 1886.**(Part I.—Proceedings from Act of Bankruptcy to Discharge.—Sections 15-18.)*

and, if the default of the debtor was in the opinion of the Court without reasonable excuse, the Court may, on the application of the official assignee, or of any creditor, adjudge him bankrupt.

(1) Any person stating himself in writing to be a creditor of the bankrupt may, personally or by agent, inspect the statement prepared under sub-section (1) or sub-section (2) at all reasonable times, and take any copy thereof or extract therefrom; but any person untruthfully so stating himself to be a creditor shall be punished, on the complaint of the official assignee, with imprisonment which may extend to three months, or with fine, or with both.

15. The debtor may within the time limited for the submission of the statement of his affairs, or, with the permission of the Court, at any time before he has been adjudged bankrupt, submit to the official assignee a proposal for a composition in satisfaction of the debts due to his creditors or a proposal for a scheme of arrangement of his affairs.

Public Examination of Debtor.

16. (1) Where the Court makes a receiving order it shall hold a public sitting, on a day to be appointed by the Court, for the examination of the debtor, and the debtor shall attend the sitting, and shall be examined as to his conduct, dealings and property.

(2) The examination shall be held as soon as conveniently may be after the expiration of the time for the submission of the debtor's statement of affairs.

(3) The Court may adjourn the examination from time to time.

(4) Any creditor who has tendered a proof, or a legal practitioner authorised by him in this behalf, may question the debtor concerning his affairs and the causes of his failure.

(5) The official assignee shall take part in the examination, and for the purpose of doing so, subject to such directions as may be given by the Court, employ a legal practitioner.

(6) The Court may put such questions to the debtor as it may think expedient.

(7) The debtor shall be examined upon oath, and it shall be his duty to answer all such questions as the Court may put or allow to be put to him.

(8) Such notes of the examination as the Court thinks proper shall be taken and shown in writing, and shall be open to the inspection of any creditor at all reasonable times.

(9) When the Court is of opinion that the affairs of the debtor have been sufficiently investigated, it shall, by order, declare that his examination is concluded, but that order shall not preclude the Court from directing a further examination of the debtor as to his conduct, dealings or property whenever it may see fit to do so.

Composition or Scheme of Arrangement.

17. (1) Where a debtor has submitted a proposal for a composition in satisfaction of the debts due to his creditors or a proposal for a scheme of arrangement of his affairs, the official assignee

shall, unless the Court otherwise directs, communicate the proposal in manner prescribed to each creditor mentioned in the debtor's statement of affairs, and either summon him to attend a meeting to be held for the consideration of the proposal, or cause a notice to be served on him in manner prescribed requiring him, within a time to be specified in the notice, to notify in writing to the official assignee whether or not he accepts the proposal.

(2) The Court may at any time direct, and one-fourth in value of the creditors mentioned in the debtor's statement of affairs may, within the time specified in the notice served under sub-section (1), by requisition in writing, require, that a meeting of the creditors shall be held for the consideration of the proposal.

(3) With respect to the summoning of and proceedings at a meeting convened under this section, or any subsequent meeting of creditors, the rules in the first schedule shall be observed.

(4) Where the official assignee issues a notice under sub-section (1), requiring a creditor to notify whether or not he accepts a proposal, he shall send with the notice a summary of the debtor's statement of affairs, including the causes of his failure, and any observation thereon which the official assignee may think fit to make.

18. (1) The composition or scheme proposed by the debtor shall not be accepted by the creditors unless—

(a) where a meeting has been convened under the last foregoing section, the creditors who have proved resolve, by special resolution passed at that meeting or an adjournment thereof, that the proposal shall be accepted; or,

(b) where a meeting has not been convened under that section, a majority in number representing three-fourths in value of the creditors who have proved notify in writing to the official assignee their acceptance of the proposal.

(2) The composition or scheme shall not be binding on the creditors unless, after its acceptance by them, it is approved by the Court.

(3) The debtor or the official assignee may, after the conclusion of the public examination of the debtor, apply to the Court to approve any composition or scheme which has been accepted by the creditors, and notice of the facts presented for hearing in the application shall be given to each creditor who has proved.

(4) The Court shall, before approving a composition or scheme, hear a report of the official assignee as to the terms of the composition or scheme and as to the conduct of the debtor, and any objection which may be made by or on behalf of any creditor.

(5) If the Court is of opinion that the terms of the composition or scheme are not reasonable, or are not calculated to benefit the general body of creditors, or in any case in which the Court is required under this Act where the debtor is adjudged bankrupt to refuse his discharge, the Court shall, or if any such facts are proved as would under this Act justify the Court in refusing, qualifying or suspending the debtor's discharge, the Court

*The Indian Bankruptcy Bill, 1886.**(Part I:—Proceedings from Act of Bankruptcy to Discharge.—Sections 19-22.)*

may in its discretion, refuse to approve the composition or scheme.

(6) If the Court approves the composition or scheme, the approval shall be testified in the prescribed manner.

(7) A composition or scheme accepted and approved in pursuance of this section shall be binding on all the creditors so far as relates to any debts due to them from the debtor and provable in bankruptcy.

(8) A certificate of the official assignee that a composition or scheme has been duly accepted and approved shall, in the absence of fraud, be conclusive as to its validity.

(9) The provisions of a composition or scheme under this section may be enforced by the Court on application by any person interested, and an order of the Court made on the application may be executed as if it were a decree.

(10) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court, on satisfactory evidence, that the composition or scheme cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by any creditor, adjudge the debtor bankrupt, and annul the composition or scheme, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this subsection, any debt provable in other respects, which has been contracted before the date of the adjudication, shall be provable in the bankruptcy.

(11) If, under or in pursuance of a composition or scheme, the official assignee or a special assignee is appointed to administer the debtor's property or manage his business, Part IV or Part V of this Act, as the case may be, and such other portions of the Act as may be prescribed, shall apply to the assignee as if he were an assignee in a bankruptcy, and as if the terms "bankruptcy," "bankrupt" and "order of adjudication" included respectively a composition or scheme of arrangement, a compounding or arranging debtor and an order approving the composition or scheme.

(12) Part III of this Act shall, so far as the nature of the case and the terms of the composition or scheme admit, apply thereto, the same interpretation being given to the words "assignee," "bankruptcy," "bankrupt" and "order of adjudication" as in the last preceding subsection.

(13) A composition or scheme shall not be approved by the Court unless it provides for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of a bankrupt.

(14) The acceptance by a creditor of a composition or scheme shall not release any person who under this Act would not be released by an order of discharge if the debtor had been adjudged bankrupt.

19. Notwithstanding the acceptance and approval of a composition or scheme, the composition or scheme shall not be binding on any creditor so far as regards a debt or liability from which, under the provisions of this Act, the

debtor would not be discharged by an order of discharge in bankruptcy, unless the creditor assents to the composition or scheme.

Adjudication of Bankruptcy.

20. (1) At the time of making a receiving order, or at any time thereafter, the Court may, on the application of the debtor himself, adjudge him bankrupt. The application may be made orally and without notice.

(2) Where a receiving order is made against a debtor, then, if a composition or scheme is not accepted and approved in pursuance of this Act within fourteen days after the conclusion of the examination of the debtor or such further time as the Court may allow, the Court shall adjudge the debtor bankrupt.

(3) When a debtor is adjudged bankrupt his property shall become divisible among his creditors and shall vest in the official assignee.

(4) Notice of every order adjudging a debtor bankrupt, stating the name, address and description of the bankrupt, the date of the adjudication, and the Court by which the adjudication is made, shall be published in the prescribed manner, and the date of the order shall, for the purposes of this Act, be the date of the adjudication.

21. (1) Where a debtor is adjudged bankrupt the creditors may, if they think fit, at any time after the adjudication, by special resolution, resolve to entertain a proposal for a composition in satisfaction of the debts due to them under the bankruptcy, or for a scheme of arrangement of the bankrupt's affairs: and thereupon the same proceedings shall be taken and the same consequences shall ensue as in the case of a composition or scheme accepted before adjudication.

(2) If the Court approve the composition or scheme, it may make an order annulling the bankruptcy and vesting the property of the bankrupt in him or in such other person as the Court may appoint, on such terms, and subject to such conditions, if any, as to the Court may declare.

(3) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court that the composition or scheme cannot proceed without injustice or undue delay, or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by any person interested, adjudge the debtor bankrupt, and annul the composition or scheme, but without prejudice to the validity of any sale, disposition or payment duly made, or thing duly done, under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this subsection, all debts provable in other respects, which have been contracted before the date of such adjudication shall be provable in the bankruptcy.

Control over Person and Property of Debtor.

22. (1) Every debt against a receiving order is made shall, unless prevented by sickness or other sufficient cause, attend any meeting of his creditors which the official assignee may require him to attend, and shall submit to such examination and give such information as the meeting may require.

ss. 33 and
of this
Bill.]

ss. 28 (5)
of this
Bill.]

ss. 47 Vic.,
32, s. 19.]

ss. 28 and
of this
Bill.]

*The Indian Bankruptcy Bill, 1886.**(Part I.—Proceedings from Act of Bankruptcy to Discharge.—Sections 23-26.)*

(2) He shall give such inventory of his property, such list of his creditors and debts, and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, wait at such times and places on the official assignee or special manager, execute such powers-of-attorney, conveyances, deeds and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the official assignee or special manager or may be prescribed by general rules, or be directed by the Court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the official assignee or special manager, or any creditor or person interested.

(3) He shall, if adjudged bankrupt, aid, to the utmost of his power, in the realization of his property and the distribution of the proceeds amongst his creditors.

(4) If a debtor wilfully fails to perform the duties imposed on him by this section, or to deliver up possession of any part of his property which is divisible amongst his creditors under this Act, and which is for the time being in his possession or under his control, to the official assignee or to any person authorised by the Court to take possession of it, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of Court, and may be punished accordingly.

23. (1) The Court may, by warrant addressed
Vic, 5.] Arrest of debtor under to any police-officer or pro-
certain circumstances. verbated officer of the Court, cause a debtor to be arrested, and any books, papers, money and goods in his possession to be seized, and him and them to be lawfully kept as prescribed until such time as the Court may order, under the following circumstances:—

(a) if, after presentation of a bankruptcy petition by or against him, it appears to the Court that there is probable reason for believing that he has concealed or is about to conceal with a view of avoiding or delaying payment of any such petition, or of avoiding examination in respect of his property, or of otherwise avoiding or delaying any proceedings against him;

(b) if, after presentation of a bankruptcy petition by or against him, it appears to the Court that there is probable reason for believing that he is about to remove his property with a view of preventing or delaying possession being taken of it by the official assignee, or that there is probable reason for believing that he has concealed or is about to conceal or destroy any of his property or any books, documents or writings which might be of use to his creditors in the course of his bankruptcy;

(c) if, after service of a bankruptcy petition on him, or after a receiving order is made against him, he removes any property in his possession above the value of fifty rupees without the leave of the official assignee;

(d) if, without good cause shown, he fails to attend any examination ordered by the Court.

(2) No payment or composition made or security given after arrest made under this section shall be exempt from the provisions of this Act relating to fraudulent preferences.

24. Where a receiving order is made against a [46 & 47 v
Redirection of debt- debtor, the Court, on the appli- c. 52, s. 26.
or's letters and telegrams. cation of the official assignee, may, from time to time, order that for such time, not exceeding three months, as the Court thinks fit, post letters and telegrams addressed to the debtor at any place or places mentioned in the order for re-direction shall be re-directed, sent or delivered by the Postal and Telegraph authorities in British India to the official assignee, or otherwise as the Court directs; and the same shall be done accordingly.

25. (1) The Court may, on the application of [46 & 47 Vic,
Discovery of debtor's the official assignee, or of any c. 52, s. 27.
property. creditor who has proved his debt, at any time after a receiving order has been made against a debtor, summon before it the debtor or any person known or suspected to have in his possession any property belonging to the debtor, or supposed to be indebted to the debtor, or any person whom the Court may deem capable of giving information respecting the debtor, his dealings or property; and the Court may require any such person to produce any documents in his custody or power relating to the debtor, his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to the Court at the time of its sitting and allowed by it, the Court may, by warrant, cause him to be apprehended and brought up for examination.

(3) The Court may examine on oath, either by word of mouth or by written interrogatories, any person brought before it concerning the debtor, his dealings or property.

(4) If on the examination of any such person it appears to the Court that he is indebted to the debtor, the Court may, on the application of the official assignee, order him to pay to the official assignee, at such time and in such manner as to the Court seems expedient, the amount in which he is indebted, or any part thereof, either in full discharge of the whole amount or not, as the Court thinks fit, with or without costs of the examination.

(5) If on the examination of any such person it appears to the Court that he has in his possession any property belonging to the debtor, the Court may, on the application of the official assignee, order him to deliver to the official assignee that property, or any part thereof, at such time, in such manner and on such terms as to the Court may seem just.

Discharge of Bankrupt.

26. (1) A bankrupt may, at any time after [11 &
being adjudged bankrupt, Vic., c. 21,
Discharge of bankrupt. apply to the Court for an 47 & 59-61.
order of discharge, and the 46 & 47 VI
Court shall appoint a day for hearing the applica- c. 52, s. 28.
tion, but the application shall not be heard until

*The Indian Bankruptcy Bill, 1886.**(Part I.—Proceedings from Act of Bankruptcy to Discharge.—Sections 27-28.)*

the public examination of the bankrupt is concluded. The application shall be heard in open Court.

(2) On the hearing of the application the Court shall take into consideration a report of the official assignee as to the bankrupt's conduct and affairs, and may either grant or refuse an absolute order of discharge, or suspend the operation of the order for a specified time, or grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the bankrupt, or with respect to his after-acquired property :

1 & 12 Vic.,
21, ss. 50
51.]
LV of 1860.
Provided that the Court shall refuse the discharge in all cases where the bankrupt has committed any offence under this Act, or under section 421, 422, 423 or 424 of the Indian Penal Code or any amendment thereof, and shall, on proof of any of the facts hereinafter mentioned, either refuse the order, or suspend the operation of the order for a specified time, or grant an order of discharge subject to such conditions as aforesaid.

(3) The facts hereinbefore referred to are—

- (a) that the bankrupt, if a trader, has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his bankruptcy or within such shorter period immediately preceding that event as the Court may deem reasonable in the circumstances of the case ;
- (b) that the bankrupt has continued to trade after knowing himself to be insolvent ;
- (c) that the bankrupt has contracted any debt provable in the bankruptcy without having at the time of contracting it any reasonable or probable ground of expectation (proof whereof shall lie on him) of being able to pay it ;
- (d) that the bankrupt has brought on his bankruptcy by rash and hazardous speculations or unjustifiable extravagance in living ;
- (e) that the bankrupt has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any suit or other legal proceeding properly brought against him ;
- (f) that the bankrupt has within three months preceding the date of the receiving order, when unable to pay his debts as they become due, given an undue preference to any of his creditors ;
- (g) that the bankrupt has on any previous occasion been adjudged bankrupt or made under any enactment in force in any part of Her Majesty's dominions a composition or arrangement with his creditors ;
- (h) that the bankrupt has been guilty of any fraud or fraudulent breach of trust.

(4) For the purposes of this section the report of the official assignee shall be *prima facie* evidence of the statements therein contained.

(5) Notice of the appointment by the Court of the day for hearing the application for discharge shall be published in the prescribed manner and sent one month at least before the day so appointed to each creditor who has proved, and the Court may hear the official assignee, and may

also hear any creditor. At the hearing the Court may put such questions to the debtor and receive such evidence as it may think fit.

(6) The Court may, in making an order of discharge, pass a decree against the debtor in favour of the official assignee for any balance of the debts provable under the bankruptcy which is not satisfied at the date of his discharge ; but in that case the decree shall not be executed without leave of the Court, which leave may be given on proof that the bankrupt has since his discharge acquired property or income available for payment of his debts.

(7) A discharged bankrupt shall, notwithstanding his discharge, give such assistance as the official assignee may require in the realization and distribution of such of his property as is vested in the official assignee, and if he fails to do so he shall be guilty of a contempt of Court ; and the Court may also, if it thinks fit, revoke his discharge, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done subsequent to the discharge, but before its revocation.

(8) Where the Court refuses the discharge of the bankrupt, it may, after such time and in such circumstances as may be authorised by general rules, permit him to renew his application for an order of discharge.

27. In either of the following cases, that is to say :—

- (1) in the case of a settlement made before and in consideration of marriage where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement, or
- (2) in the case of any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest (not being money or property of or in right of his wife),

if the settlor is adjudged bankrupt or compounds or arranges with his creditors, and it appears to the Court that the settlement, covenant or contract was made in order to defeat or delay creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the Court may refuse or suspend an order of discharge or grant an order subject to conditions or refuse to approve a composition or arrangement, as the case may be, in like manner as in cases where the debtor has been guilty of fraud.

28. (1) An order of discharge shall not release the bankrupt from any debt on a recognisance, or from any debt with which the bankrupt may be chargeable at the suit of the Crown or of any person for any offence against an enactment relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail-bond entered into for the appearance of any person prosecuted for any such offence ; and the bankrupt shall not be discharged from these excepted debts unless the Government certify in writing its consent to his being discharged therefrom.

The Indian Bankruptcy Bill, 1886.
(Part II.—Disqualifications of Bankrupt.—Part III.—Administration of
Property.—Sections 29-32.)

(2) An order of discharge shall not release the bankrupt from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party, or from any debt or liability whereof he has obtained forbearance by any fraud to which he was a party.

(3) An order of discharge shall release the bankrupt from all other debts provable in bankruptcy.

(4) An order of discharge shall be conclusive evidence of the bankruptcy, and of the validity of the proceedings therein; and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

(5) An order of discharge shall not release any person who at the date of the receiving order was a partner or co-trustee with the bankrupt or was jointly bound or had made any joint contract with him, or any person who was surety or in the nature of a surety for him.

PART II.

DISQUALIFICATIONS OF BANKRUPT.

29. (1) Where a debtor is adjudged bankrupt, the disqualifications of him shall, subject to the provisions of this section, be disqualified for—

- (a) being appointed or acting as a Member of any Legislative Council constituted under the Indian Councils Act, 1861;
- (b) being appointed or acting as a Justice of the Peace, Judge or Magistrate;
- (c) being appointed or acting as a member of any local authority.

(2) The disqualifications to which a bankrupt is subject under this section shall be removed and cease if and when—

- (a) the adjudication of bankruptcy against him is annulled; or
- (b) he obtains from the Court his discharge with a certificate to the effect that his bankruptcy was caused by no fault on his part.

The Court may grant or withhold the certificate as it thinks fit, but a refusal of the certificate may be subject to appeal.

(3) If a person is adjudged bankrupt whilst holding the office of Member of a Legislative Council, Justice of the Peace, Judge, Magistrate, or member of a local authority, his office shall thereupon become vacant.

PART III.

ADMINISTRATION OF PROPERTY.

Proof of Debts.

30. (1) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise or breach of trust shall not be provable in bankruptcy.

(2) A person having notice of any act of bankruptcy, available against the debtor shall not prove under the receiving order for any debt or liability

contracted by the debtor subsequently to the date of his so having notice.

(3) Save as aforesaid, all debts and liabilities, present or future, certain or contingent, to which the debtor is subject at the date of the receiving order, or to which he may become subject before his discharge by reason of any obligation incurred before the date of the receiving order, shall be deemed to be debts provable in bankruptcy.

(4) An estimate shall be made by the official assignee of the value of any debt or liability provable as aforesaid which by reason of its being subject to any contingency or contingencies, or for any other reason, does not bear a certain value. [11 & 12 Vic. c. 21, s. 48.]

(5) Any person aggrieved by any estimate made by the official assignee as aforesaid may appeal to the Court.

(6) If, in the opinion of the Court, the value of the debt or liability is incapable of being fairly estimated, the Court may make an order to that effect, and thereupon the debt or liability shall, for the purposes of this Act, be deemed to be a debt not provable in bankruptcy.

(7) If, in the opinion of the Court, the value of the debt or liability is capable of being fairly estimated, the Court may direct the value to be assessed before the Court itself, and may give all necessary directions for this purpose, and the amount of the value when assessed shall be deemed to be a debt provable in bankruptcy.

(8) "Liability" shall for the purposes of this Act include any compensation for work or labour done, and any obligation or possibility of an obligation to pay money or money's worth on the breach of any express or implied covenant, contract, agreement or undertaking, whether the breach does or does not occur, or is or is not likely to occur or capable of occurring before the discharge of the debtor, and generally it shall include any express or implied engagement, agreement or undertaking to pay, or capable of resulting in the payment of, money, or money's worth, whether the payment is, as respects amount, fixed or unliquidated; as respects time, present or future, certain or dependent on any one contingency or on two or more contingencies; as to mode of valuation, capable of being ascertained by fixed rules, or as matter of opinion.

31. Where there have been mutual credits, mutual debts or other mutual dealings between a debtor and a creditor, [11 & 12 Vic. c. 21, s. 39. 46 & 47 Vic. c. 52, s. 38.]

and where a receiving order is made under this Act and any other person proving or claiming to prove a debt under the receiving order, an account shall be taken by, or under the orders of, the Court of what is due from the one party to the other in respect of those mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively; but a person shall not be entitled under this section to claim the benefit of any set-off against the property of a debtor in any case where he had at the time of giving credit to the debtor notice of an act of bankruptcy committed by the debtor and available against him.

32. With respect to the mode of proving debts, the right of proof by secured and other creditors, the ad- [46 & 47 Vic. c. 52, s. 39.]

*The Indian Bankruptcy Bill, 1886.**(Part III.—Administration of Property.—Sections 33-37.)*

proofs, and the other matters referred to in the second schedule, the rules in that schedule shall be observed.

47 Vic.,
s. 40.] **33. (1)** In the distribution of the property of a bankrupt there shall be paid in priority to all other debts—

(a) all revenue, taxes, cesses and rates, whether payable to Her Majesty, to any local authority or otherwise, due from the bankrupt at the date of the receiving order, and having become due and payable within twelve months next before that date;

12 Vic.,
s. 46.] (b) all wages or salary of any clerk or servant in respect of services rendered to the bankrupt during four months before the date of the receiving order, not exceeding five hundred rupees for each clerk or servant; and

(c) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the bankrupt during four months before the date of the receiving order.

(2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions among themselves.

1X of
s. 262.] (3) In the case of partners the joint estate shall be applicable in the first instance in payment of their joint debts, and the separate estate of each partner shall be applicable in the first instance in payment of his separate debts. If there is a surplus of the separate estates, it shall be dealt with as part of the joint estate. If there is a surplus of the joint estate, it shall be dealt with as part of the respective separate estates in proportion to the right and interest of each partner in the joint estate.

(4) Subject to the provisions of this Act, all debts proved in the bankruptcy shall be paid *pari passu*.

(5) If there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date of the receiving order at the rate of six per centum per annum on all debts proved in the bankruptcy.

47 Vic.,
s. 41.] **34. (1)** Where at the time of the presentation of the bankruptcy petition any person is apprenticed or is an articled clerk to the bankrupt, the adjudication of bankruptcy shall, if either the bankrupt or the apprentice or clerk gives notice in writing to the official assignee to that effect, be a complete discharge of the contract or apprenticeship or articles of agreement; and, if any money has been paid by or on behalf of the apprentice or clerk to the bankrupt as a fee, the official assignee may, on the application of the apprentice or clerk, or of some person on his behalf, pay such sum as the official assignee, subject to an appeal to the Court, thinks reasonable, out of the bankrupt's property, to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served with the bankrupt under the contract or articles before the commencement of the bankruptcy, and to the other circumstances of the case.

(2) Where it appears expedient to the official assignee, he may, on the application of any apprentice or articled clerk to the bankrupt, or any person acting on behalf of the apprentice or articled clerk, instead of acting under the preceding provisions of this section, transfer the contract of apprenticeship or articles of agreement to some other person.

35. (1) The landlord or other person to whom [11 & 12 Vic.
c. 21, s. 22.
46 & 47 Vic.
c. 52, s. 42.] Power to landlord to any rent is due from the bankrupt may, at any time, either before or after the commencement of the bankruptcy, exercise his right of distress (if any) upon the property of the bankrupt for the rent due to him from the bankrupt, with this limitation, that if the distress for rent be levied after the commencement of the bankruptcy it shall be available only for three months' rent accrued due prior to the date of the order of adjudication, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the surplus due for which the distress may not have been available.

(2) For the purposes of this section the term "order of adjudication" shall be deemed to include an order for the administration of the estate of a deceased person who dies insolvent.

Property available for Payment of Debts.

36. The bankruptcy of a debtor, whether the relation back at ass. same takes place on the [46 & 47 Vic.
c. 52, s. 43.] debtor's own petition or upon that of a creditor or creditors, shall be deemed to have relation back to, and to commence at, the time of the act of bankruptcy being committed on which a receiving order is made against him, or, if the bankrupt is proved to have committed more acts of bankruptcy than one, to have relation back to, and to commence at, the time of the first of the acts of bankruptcy proved to have been committed by the bankrupt within three months next preceding the date of the presentation of the bankruptcy petition; but a bankruptcy petition, receiving order or adjudication shall not be rendered invalid by reason of any act of bankruptcy anterior to the debt of the petitioning creditor.

37 The property of the bankrupt divisible amongst his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following particulars:—

(1) property held by the bankrupt on trust for any other person;

(2) the tools (if any) of his trade and the necessary wearing apparel, bedding, and other such necessaries of himself, his wife and children, to a value, exclusive of tools and apparel, and the other things aforesaid, not exceeding two hundred rupees in the whole; [11 & 12 Vic.
c. 21, s. 7.]

But it shall comprise the following particulars:—

(3) all such property as may belong to or be vested in the bankrupt at the commencement of the bankruptcy or may be acquired by or devolve on him before his discharge; [11 & 12 Vic.
c. 21, s. 7.]

(4) the capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bank-

The Indian Bankruptcy Bill, 1886.
(Part III.—Administration of Property.—Sections 38-43.)

rupt for his own benefit at the commencement of his bankruptcy or before his discharge; and

[11 & 12 Vic.,
c. 21, s. 23.]

(5) all moveable property being, at the commencement of the bankruptcy, in the possession, order or disposition of the bankrupt, in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof: Provided that things in action, other than debts due or growing due to the bankrupt in the course of his trade or business, shall not be deemed moveable property within the meaning of this section.

Effect of Bankruptcy on antecedent Transactions.

Of. Act XIV
of 1882, s.
36.
6 & 47 Vic.,
c. 52, s. 45.]

38. (1) Where execution of a decree has issued against the property of a debtor, no person shall be entitled to the benefit of the execution against the official assignee, except in respect of assets realized in the course of the execution by sale or otherwise before the date of the receiving order, and before notice of the presentation of any bankruptcy petition by or against the debtor, or of the commission of any available act of bankruptcy by the debtor, has been given to the Court executing the decree.

(2) Nothing in this section shall affect the rights of a mortgagee or incumbrancer of property against which a decree is executed.

16 & 47 Vic.,
c. 52, s. 46.]

39. (1) Where execution of a decree has issued against any property of a debtor which is saleable in execution, and before the sale thereof notice is given to the Court executing the decree that a receiving order has been made against the debtor, the Court shall, on application, direct the property to be delivered to the official assignee, but the costs of the execution shall be a charge on the property so delivered, and the official assignee may sell the property or an adequate part thereof for the purpose of satisfying the charge.

(2) A person who in good faith purchases the property of a debtor under a sale in execution shall in all cases acquire a good title to it against the official assignee.

16 & 47 Vic.,
c. 52, s. 47.]

40. (1) Any settlement of property not being a settlement made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settler of property which has accrued to the settler after marriage in right of his wife, shall, if the settler becomes bankrupt within two years after the date of the settlement, be void against the official assignee, and shall if the settler becomes bankrupt at any subsequent time within ten years after the date of the settlement, be void against the official assignee unless the parties claiming under the settlement can prove that the settler was at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement and that the interest of the settler in the property had passed to the trustee of the settlement on the execution thereof.

(2) Any covenant or contract made in consideration of marriage, for the future settlement on or

property wherein he had not at the date of his marriage any estate or interest, whether vested or contingent in possession or remainder, and not being money or property of or in right of his wife, shall on his becoming bankrupt before the money or property has been actually paid or transferred pursuant to the covenant or contract, be void against the official assignee.

(3) "Settlement" shall for the purposes of this section include any conveyance or transfer of property.

41. (1) Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred, and

[11 & 12
c. 21, s.
46 & 47
c. 52, s.]

every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor, or any person in trust for any creditor, with a view of giving that creditor a preference over the other creditors, shall, if the person making, taking, paying or suffering the same is adjudged bankrupt on a bankruptcy petition presented within three months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the official assignee.

(2) This section shall not affect the rights of any person making title in good faith and for valuable consideration through or under a creditor of the bankrupt.

42. Subject to the foregoing provisions of this Act with respect to the effect of bankruptcy on an execution and with respect to the avoidance of certain settlements and preferences, nothing in this Act shall invalidate in the case of a bankruptcy—

- (a) any payment of the bankrupt to any of his creditors;
- (b) any payment or delivery to the bankrupt;
- (c) any conveyance or assignment by the bankrupt for valuable consideration, or
- (d) any contract, dealing or transaction by or with the bankrupt for valuable consideration:

Provided that both the following conditions are complied with, namely:—

- (1) the payment, delivery, conveyance, assignment, contract, dealing or transaction, as the case may be, takes place before the date of the receiving order; and
- (2) the person (other than the debtor) to, by or with whom the payment, delivery, conveyance, assignment, contract, dealing or transaction was made, executed or entered into, has not at the time of the payment, delivery, conveyance, assignment, contract, dealing or transaction, notice of any available act of bankruptcy committed by the bankrupt before that time.

Realization of Property.

43. (1) The official assignee shall, as soon as he may be, take possession of the deeds, books and documents of the bankrupt, and all other parts of his property capable of manual

Possession of property
by assignee.

[11 & 12 Vic.,
c. 21, s. 21.
16 & 47 Vic.,
c. 52, s. 50.]

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(Part III.—Administration of Property.—Sections 44-47.)

(2) The official assignee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position as if he were a receiver of the property appointed under section 503 of the Code of Civil Procedure, and shall have such of the powers conferable on a receiver under that section as may be prescribed; and the Court may on his application enforce such acquisition or retention accordingly.

(3) Where any part of the property of the bankrupt consists of stock, shares in ships, shares or any other property transferable in the books of any company, office or person, the official assignee may exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt.

(4) Where any part of the property of the bankrupt consists of things in action, those things shall be deemed to have been duly assigned to the official assignee.

(5) Any treasurer or other officer, or any banker, attorney or agent of a bankrupt, shall pay and deliver to the official assignee all money and securities in his possession or power, as such officer, banker, attorney or agent, which he is not by law entitled to retain as against the bankrupt or the official assignee. If he does not, he shall be guilty of a contempt of Court, and may be punished accordingly on the application of the official assignee.

44. Any person acting under warrant of the Court may seize any part of the property of a bankrupt in the custody or possession of the bankrupt or of any other person, and with a view to the seizure thereof may break open any house, building or room of the bankrupt where the bankrupt is supposed to be, or any building or receptacle of the bankrupt where any of his property is supposed to be; and, where the Court is satisfied that there is reason to believe that property of the bankrupt is concealed in a house or place not belonging to him, the Court may, if it thinks fit, grant a search-warrant to any police-officer or officer of the Court, who may execute it according to its tenor.

45. (1) Where a bankrupt is an officer of the army or navy or of Her Majesty's Indian marine service, or an officer or clerk or otherwise employed or engaged in the civil service of the Crown, the official assignee shall receive for distribution amongst the creditors so much of the bankrupt's pay or salary as, subject to the provisions of section 266 of the Code of Civil Procedure, the Court, on the application of the official assignee, may, by order under section 268 of that Code, direct.

(2) Where a bankrupt is in the receipt of a salary or income other than as aforesaid, the Court, on the application of the official assignee, shall from time to time, subject to the provisions of section 266 of the said Code and of the Pensions Act, 1871, make such order as it thinks just for the payment of the salary or income, or of any part thereof, to the official assignee, to be applied by him in such manner as the Court may direct.

(3) Nothing in this section shall take away or abridge any power of the chief officer of any public department to dismiss a bankrupt.

46. The property of a debtor who has been adjudged bankrupt shall pass from official assignee to official assignee, and shall vest in the official assignee for the time being during his continuance in office, without any conveyance, assignment or transfer whatever.

47. (1) Where any part of the property of the bankrupt consists of any tenancy burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the official assignee, notwithstanding that he has endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, but subject to the provisions of this section, may, by writing signed by him, at any time within three months after the adjudication of bankruptcy, disclaim the property:

Provided that, where any such property has not come to the knowledge of the official assignee within one month after the adjudication, he may disclaim the property at any time within two months after he first became aware thereof.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interests and liabilities of the bankrupt and his property in or in respect of the property disclaimed, and shall also discharge the official assignee from all personal liability in respect of the property disclaimed as from the date when the property vested in him, but shall not, except so far as is necessary for the purpose of releasing the bankrupt and his property and the official assignee from liability, affect the rights or liabilities of any other person.

(3) The official assignee shall not be entitled to disclaim a tenancy without the leave of the Court, except in any cases which may be prescribed by general rules; and the Court may, before or on granting the leave, require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such orders with respect to fixtures, tenant's improvements and other matters arising out of the tenancy, as the Court thinks just.

(4) The official assignee shall not be entitled to disclaim any property in pursuance of this section in any case where an application in writing has been made to him by any person interested in the property requiring him to decide whether he will disclaim or not, and he has for a period of twenty-eight days after the receipt of the application, or such extended period as may be allowed by the Court, declined or neglected to give notice whether he disclaims the property or not; and, in the case of a contract, if the official assignee, after such application as aforesaid, does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

(5) The Court may, on the application of any person who is, as against the official assignee, entitled to the benefit or subject to the burden of a contract made with the bankrupt, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise, as to

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(Part III.—Administration of Property.—Sections 48-50.)

the Court may seem equitable; and any damages payable under the order to any such person may be proved by him as a debt under the bankruptcy.

(6) The Court may, on application by any person either claiming any interest in any disclaimed property, or being under any liability not discharged by this Act in respect of any disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or delivery thereof to any person entitled thereto, or to whom it may seem just that the same should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Court thinks just; and, on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose:

Provided always that, where the property disclaimed is a tenancy, the Court shall not make a vesting order in favour of any person claiming under the bankrupt, whether as under-tenant or as mortgagee by demise, except upon the terms of making that person subject to the same liabilities and obligations as the bankrupt was subject to under the tenancy in respect to the property at the date when the bankruptcy petition was filed, and any under-tenant or mortgagee declining to accept a vesting order upon these terms shall be excluded from all interest in and security upon the property; and if there is no person claiming under the bankrupt who is willing to accept an order upon these terms, the Court shall have power to vest the bankrupt's estate and interest in the property in any person bound either personally or in a representative character, and either alone or jointly with the bankrupt, to discharge the tenancy's liabilities and obligations, freed and discharged from all estates, tenements and interests created therein by the bankrupt.

(7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the injury, and may accordingly prove the same as a debt under the bankruptcy.

48. (1) Subject to the provisions of this Act, Powers of assignee as the official assignee may do to dealing with property and or any of the following things —

- (a) sell all or any part of the property of the bankrupt (including the goodwill of his business, if any, and the book debts due or growing due to him by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;
- (b) give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof;
- (c) prove, rank, claim and draw a dividend in respect of any debt due to the bankrupt;
- (d) exercise any powers the capacity to exercise which is vested in the official assignee under this Act, and execute any powers of attorney, deeds and other instruments for the purpose of carrying into effect the provisions of this Act;

in tail or other owner of an estate of inheritance less than an estate in fee-simple in the same manner as the bankrupt might have dealt with it.

(2) Any dealing by an official assignee under clause (c) of sub-section (1) with any property to which the bankrupt is before his discharge entitled as in that clause mentioned shall, although the bankrupt be dead at the time of that dealing, be as valid and have the same operation as if the bankrupt were then alive.

49. The official assignee may, subject to any Powers exercisable by general or special orders of assignee subject to orders the Court, do all or any of of Court. the following things:—

- (1) carry on the business of the bankrupt, so far as may be necessary for the beneficial winding up of the same;
- (2) bring, institute or defend any suit or other legal proceeding relating to the property of the bankrupt;
- (3) employ a legal practitioner or other agent to take any proceedings or do any business;
- (4) accept as the consideration for the sale of any property of the bankrupt a sum of money payable at a future time subject to such stipulations as to security and otherwise as he thinks fit;
- (5) mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts;
- (6) refer any dispute to arbitration, and compromise all debts, claims and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt, on the receipt of such sums, payable at such times, and generally on such terms as may be agreed on;
- (7) make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of any debts provable under the bankruptcy;
- (8) make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the official assignee by any person or by the official assignee on any person;
- (9) divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

Distribution of Property.

50. (1) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the official assignee shall, with all convenient speed, declare and distribute dividends amongst the creditors who have proved their debts

(2) The first dividend, if any, shall be declared

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(Part IV.—Official Assignees.—Sections 51-58.)

Court that there is sufficient reason for postponing the declaration to a later date.

(3) Subsequent dividends shall, in the absence of sufficient reason to the contrary, be declared and be payable at intervals of not more than six months.

(4) Before declaring a dividend the official assignee shall cause notice of his intention to do so to be published in the prescribed manner, and shall also send reasonable notice thereof to each creditor mentioned in the bankrupt's statement who has not proved his debt.

(5) When the official assignee has declared a dividend he shall send to each creditor who has proved a notice showing the amount of the dividend and when and how it is payable, and a statement in the prescribed form as to the particulars of the estate.

1 & 47 Vic.,
32, s. 59.]

51. (1) Where one partner of a firm is adjudged bankrupt, a creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.

(2) Where joint and separate properties are being administered, dividends of the joint and separate properties shall, subject to any order to the contrary that may be made by the Court on the application of the official assignee or any person interested, be declared together; and the expenses of and incident to those dividends shall be fairly apportioned by the official assignee between the joint and separate properties, regard being had to the work done for and to the benefit received by each property.

1 & 12 Vic.,
21, s. 43.
1 & 17 Vic.,
52, s. 60.]

52. In the calculation and distribution of a dividend the official assignee, if residing at a distance, shall make provision for debts provable in bankruptcy appearing from the bankrupt's statements, or otherwise, to be due to persons resident in places so distant from the place where the official assignee is acting that in the ordinary course of communication they have not had sufficient time to tender the proofs, or to establish them if disputed, and as for debts provable in bankruptcy the subject of claims not yet determined. He shall also make provision for any disputed proofs or claims, and for the expenses necessary for the administration of the estate or otherwise, and, subject to the foregoing provisions, he shall distribute as dividend all money in hand.

46 & 17 Vic.,
s. 52, s. 61.]

53. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any money for the time being in the hands of the official assignee any dividend or dividends he may have failed to receive before that money is applied to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

46 & 17 Vic.,
s. 52, s. 62.]

54. When the official assignee has realized all the property of the bankrupt, or so much thereof as can, in his opinion, be realized without needlessly

protracting the proceedings in bankruptcy, he shall, with the leave of the Court, declare a final dividend; but before so doing he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified to him, but not established to his satisfaction, that if they do not establish their claims to the satisfaction of the Court within a time limited by the notice he will proceed to make a final dividend without regard to their claims. After the expiration of the time so limited, or, if the Court on application by any such claimant grants him further time for establishing his claim, then on the expiration of that further time, the property of the bankrupt shall be divided among the creditors who have proved their debts, without regard to the claims of any other persons.

55. No suit for a dividend shall be against the official assignee, but if the official assignee refuses to pay any dividend the Court

may, if it thinks fit, order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld, and the costs of the application.

56. (1) The official assignee may appoint the bankrupt himself to superintend the management of the property of the bankrupt or of any part thereof, or to carry on the trade (if any) of the bankrupt for the benefit of his creditors, and in any other respect to aid in administering the property in such manner and on such terms as the official assignee may direct.

(2) The official assignee may, from time to time, make such allowance as he thinks just to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services if he is engaged in winding up his estate, but the Court may reduce any such allowance and limit the time for which it may be made.

57. The bankrupt shall be entitled to any surplus remaining after payment to his creditors, with interest, as by this Act provided, and of the costs, charges and expenses of the proceedings under the bankruptcy petition.

PART IV.

OFFICIAL ASSIGNEES.

Appointment and Removal.

58. (1) The Chief Justice of each of the High Courts of Judicature at Fort St. William, Madras and Bombay may from time to time appoint such person as he thinks fit to the office of official assignee of debtors' estates for that Court, and may, with the concurrence of a majority of the other Judges of the Court, remove the person for the time being holding that office for any of the following causes, namely, unwillingness to act, removal from out of the jurisdiction of the Court, incapacity or misconduct.

(2) The Local Government may in like manner appoint such person as it thinks fit to the office of official assignee of debtors' estates for any other Court having bankruptcy jurisdiction under this Act, and may remove the person for the time being holding that office.

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(Part IV.—Official Assignees.—Sections 59-64.)

(3) Notwithstanding anything in sub-sections (1) and (2), the persons substantively or temporarily holding the office of official assignee immediately before the commencement of this Act in the Courts for the Relief of Insolvent Debtors at Calcutta, Madras and Bombay under the 11 & 12 Vic., cap. 21 (*an Act to consolidate and amend the Laws relating to Insolvent Debtors in India*), and in the Court of the Recorder of Rangoon under that statute as applied by the Burma Courts Act, 1875, shall, without further appointment for that purpose, become the official assignees, substantive or temporary, as the case may be, under this Act in the High Courts at Fort William, Madras and Bombay and in the Court of the Recorder of Rangoon, respectively.

XVII of 1875.

Duties.

46 & 47 Vic.,
52, s. 68.]

59. (1) The duties of an official assignee shall have relation both to the conduct of the debtor and to the administration of his estate.

(2) An official assignee may, for the purpose of affidavits verifying proofs, petitions or other proceedings under this Act administer oaths.

46 & 47 Vic.,
52, s. 60.]

60. As regards the debtor, it shall be the duty of the official assignee—
Duties of official assignee as regards the debtor's conduct.

(1) to investigate the conduct of the debtor and to report to the Court, stating whether there is reason to believe that the debtor has committed any act which constitute an offence under this Act or under section 421, 422, 423 or 424 of the Indian Penal Code or any amendment thereof, or which would justify the Court in refusing, suspending or qualifying an order for his discharge;

LV of 1860.

(2) to make such other reports concerning the conduct of the debtor as the Court may direct or as may be prescribed;

(3) to take such part as may be directed by the Court in the public examination of the debtor; and

(4) to take such part and give such assistance in relation to the prosecution of any fraudulent debtor as the Court may direct or as may be prescribed;

46 & 47 Vic.,
52, s. 70.]

61. (1) As regards the estate of a debtor it shall be the duty of the official assignee—
Duties of official assignee as to debtor's estate.

(a) where a special assignee has not been appointed, to act as receiver of the debtor's estate, and, where a special manager has not been appointed, as manager thereof;

(b) to authorise the special manager to raise money or make advances for the purposes of the estate in any case where, in the interests of the creditors, it appears necessary so to do;

(c) to summon and preside at the meeting mentioned in section 17;

(d) to report to the creditors as to any proposal which the debtor has made with respect to the mode of liquidating his affairs;

(e) to advertise the receiving order, the date of the debtor's public examination, and such other matters as it may be necessary to advertise.

(2) For the purpose of his duties as interim receiver or manager the official assignee shall have such of the powers conferable on a receiver appointed under section 503 of the Code of Civil Procedure as may be prescribed. [See ss. 11 & 12 Vic. c. 21, s. 19.]

(3) The official assignee shall, account to the Court and pay over all moneys and deal with all securities in such manner as, subject to the provision of this Act, the Court, from time to time, directs. [See s. 61 of this Bill.]

Remuneration.

62. (1) The remuneration to be paid to the official assignee shall be fixed by general rules. [11 & 12 Vic. c. 21, s. 19; 46 & 47 Vic. c. 52, s. 72.]

(2) The rules shall express what expenses the remuneration is to cover, and no liability shall attach to the bankrupt's estate, or to the creditors, in respect of any expenses which the remuneration is expressed to cover.

(3) No remuneration whatever beyond that referred to in sub-section (1) shall be received by an official assignee as such.

Costs.

63. (1) No payment shall be allowed in the accounts of the official assignee or manager in respect of the performance by any other person of the ordinary duties which are required by this Act or the rules made under this Act to be performed by himself. [46 & 47 Vic. c. 52, s. 73.]

(2) All bills and charges of legal practitioners, managers, accountants, auctioneers, brokers and other persons shall be taxed by the prescribed officer, and no payments in respect thereof shall be allowed in the accounts of the official assignee without leave of the Court given after the bills and charges have been taxed.

(3) Every such person shall, on request by the official assignee (which request the official assignee shall make a sufficient time before declaring a dividend), deliver his bill of costs or charges to the prescribed officer, and if he fails to do so within seven days after receipt of the request, or such further time as the Court, on application, may grant, the official assignee shall declare and distribute the dividend without regard to any claim by him, and thereupon any such claim shall be forfeited as well against the official assignee personally as against the estate.

Receipts, Payments, Accounts and Audit.

64. (1) Two accounts, called respectively the Bankruptcy Estates Account and the Bankruptcy Dividends Account, shall be kept by the Court with such Government treasury, and in accordance with such rules, as the Governor General in Council may from time to time prescribe. [11 & 12 Vic. c. 21, s. 21; Ben. Rule 16; 46 & 47 Vic. c. 52, s. 74.]

(2) Subject to those rules, the Bankruptcy Estates Account shall be an account of money held by the Court for estates in bankruptcy, and the Bankruptcy Dividends Account shall be an account of declared dividends remaining unclaimed or undistributed. [New.]

(3) The said accounts shall be opened as soon as may be after the passing of this Act. [46 & 47 Vic. c. 52, s. 162.]

(4) The official assignee shall, in such manner and at such times as the Court, with the sanction

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(Part IV.—Official Assignees.—Sections 65-71.)

of the Governor General in Council, directs, pay the money received by him on account of estates in bankruptcy into the Court for credit to the Bankruptcy Estates Account, and the Court shall furnish him with a certificate of receipt of the money so paid.

[11 & 12 Vic.,
c. 21, s. 31.] (5) If an official assignee at any time retains for more than ten days a sum exceeding five hundred rupees, or such other sum as the Court in any particular case authorizes him to retain, then, unless he explains the retention to the satisfaction of the Court, he shall pay interest on the amount so retained in excess at the rate of twenty per centum per annum, and shall be liable to pay any expenses occasioned by reason of his default, and to submit to such other consequences as may be prescribed.

(6) All payments out of money standing to the credit of the Bankruptcy Estates Account or the Bankruptcy Dividends Account shall be made by the treasury in the prescribed manner on the order of the prescribed officer.

[46 & 47 Vic.,
c. 52, s. 75.] 65. An official assignee shall not pay any sums received by him as official assignee into his private banking account.

[16 & 47 Vic.,
c. 52, s. 76.] 66 (1) Whenever the balance standing to the credit of an estate in the Bankruptcy Estates Account exceeds ten thousand rupees, the Court may order such part thereof as is not required for the time being to answer demands in respect of the estate, or for transfer to the Bankruptcy Dividends Account in respect of dividends declared, to be invested in Government securities.

(2) When the Court has made an order under sub-section (1), it shall notify the order to such officer as the Governor General in Council may appoint in this behalf, and pay over to the officer the sum which it has ordered to be invested or any part thereof as the officer may require, and the officer may invest the said sum or part thereof in Government securities to be placed to the credit of the estate.

(3) Whenever any part of the money so invested is, in the opinion of the Court, required to answer any demands in respect of the estate or for transfer to the Bankruptcy Dividends Account, the Court shall notify to the officer the amount so required, and the officer shall thereupon repay to the Court such sum as may be required to the credit of the estate, and for that purpose may direct the sale of such part of the said securities as may be necessary.

(4) Interest on investments under this section shall be paid to the Bankruptcy Estates Account to the credit of the estate.

[11 & 12 Vic.,
c. 21, s. 33,
Ben. Rules,
39-41,
46 & 47 Vic.,
c. 52, s. 78.] 67. (1) Every official assignee shall, at such times as may be prescribed, but not less than twice in each year during his tenure of office, submit to the Court, or as it directs, an account of his receipts and payments as such official assignee.

(2) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a declaration in the prescribed form.

(3) The Court shall cause the accounts so submitted to be audited, by such officer as the Gov-

ernor General in Council may appoint in this behalf, and for the purposes of the audit the official assignee shall furnish the officer with such vouchers and information as the officer may require, and the officer may at any time require the production of and inspect any books or accounts kept by the official assignee.

(4) When any such account has been audited, a copy thereof shall be filed in the Court, and shall be open to the inspection of any creditor, or of the bankrupt, or of any person interested.

68. The official assignee shall, whenever required by any creditor so to do, and on payment by the creditor of the prescribed fee, furnish and transmit to the creditor by post a list of the creditors, showing in the list the amount of the debt due to each of the creditors. [46 & 47
c. 52, s. 7]

69. The official assignee shall keep, in manner prescribed, proper books, in which he shall from time to time cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed; and any creditor of the bankrupt may, subject to the control of the Court, personally or by his agent, inspect any such books. [46 & 47
c. 52, s. 8]

70. (1) Every official assignee shall, from time to time, as may be prescribed, and not less than once in every year, during the continuance of the bankruptcy, submit to the Court a statement showing the proceedings in the bankruptcy up to the date of the statement, containing the prescribed particulars, and made out in the prescribed form.

(2) The Court shall cause the statement so submitted to be examined, and shall call the official assignee to account for any misfeasance, neglect or omission which may appear on the statement or in his accounts or otherwise, and may require the official assignee to make good any loss which the estate of the bankrupt may have sustained by reason of the misfeasance, neglect or omission.

Release

71. (1) When the official assignee has realized all the property of the bankrupt, or so much thereof as can, in his opinion, be realized without needlessly protracting the proceedings in bankruptcy, and distributed a final dividend, if any, or has ceased to act by reason of a composition having been approved, or has resigned, or has vacated or been removed from his office, the Court shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the Court, shall take into consideration the report, and any objection which may be urged by any creditor or person interested against the release of the official assignee, and shall either grant or withhold the release accordingly. [46 & 47
c. 52, s. 9]

(2) Where the release of an official assignee is withheld, the Court may, on the application of any creditor or person interested, make such order as it thinks just, charging the official assignee with the consequences of any act or default which he may have done or made contrary to his duty.

(3) An order of the Court releasing the official assignee shall discharge him from all liability in

The Indian Bankruptcy Bill, 1886.
(Part V.—Special Assignees.—Sections 72-77.)

respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as official assignee, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

Official Name.

3 & 47 Vic.,
52, s. 88.] **72.** The official assignee may sue and be sued by the name of "the official assignee of the property of _____, a bankrupt," inserting the name of the bankrupt, and by that name may hold property of every description, make contracts, enter into any engagements binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office.

Vacation of Office on Insolvency.

47 Vic.,
s. 85.] **73.** If a receiving order is made against an official assignee, he shall thereby vacate the office of official assignee.

Control.

47 Vic.,
s. 89.] **74.** (1) Subject to the provisions of this Act, the official assignee shall, in the administration of the property of the bankrupt and in the distribution thereof amongst his creditors, have regard to any directions that may be given by any resolution of the creditors at a meeting.

(2) The official assignee may, from time to time, summon meetings of the creditors for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors, by resolution at any meeting, or the Court may direct, or whenever requested in writing to do so by one-fourth in value of the creditors.

(3) The official assignee may apply to the Court in manner prescribed for directions in relation to any particular matter arising under the bankruptcy.

(4) Subject to the provisions of this Act, the official assignee shall use his own discretion in the management of the estate and its distribution among the creditors.

47 Vic.,
s. 90.] **75.** If the bankrupt or any of the creditors, or any other person, is aggrieved by any act or decision of the official assignee, he may apply to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order in the premises as it thinks just.

47 Vic.,
s. 91.] **76.** (1) In the event of any official assignee not faithfully performing his duties and duly observing all the requirements imposed on him by any enactment, rules or otherwise, with respect to the performance of his duties, or in the event of any complaint being made to the Court by any creditor in regard thereto, the Court shall enquire into the matter and take such action thereon as may be deemed expedient.

(2) The Court may at any time require any official assignee to answer any inquiry made by it in relation to any bankruptcy in which he is

engaged, and may examine him or any other person on oath concerning the bankruptcy.

(3) The Court may also direct a local investigation to be made of the books and vouchers of the official assignee.

PART V.

SPECIAL ASSIGNEES.

77. (1) If any creditor desires that any person other than the official assignee be appointed assignee of the bankrupt's estate, he may, at any time after the debtor has been adjudged bankrupt, apply to the Court to summon a meeting of the creditors for the purpose of considering the appointment of a special assignee.

(2) The Court may in any case, and shall if the creditor, or he and other creditors applying with him, represent one-fourth in value of the creditors, cause a meeting to be summoned for that purpose.

(3) At the meeting convened under sub-section (2) the creditors may, by ordinary resolution, appoint a special assignee of the property of the bankrupt.

(4) If a special assignee is appointed, he shall give security in manner prescribed to the satisfaction of the Court; and the Court, if satisfied with the security, shall certify that his appointment has been duly made, unless it disapproves of the appointment on the ground that it has not been made in good faith by a majority in value of the creditors voting, or that the person appointed is not fit to act as assignee, or that his connection with or relation to the bankrupt or his estate or any particular creditor makes it difficult for him to act with impartiality in the interests of the creditors generally.

(5) The appointment of a special assignee shall take effect as from the date of the certificate.

(6) If the Court disapproves of the appointment made at the meeting summoned under sub-section (2), it shall cause a further meeting of the creditors to be summoned for the purpose of appointing some other person to be special assignee.

(7) If either at the meeting summoned under sub-section (2) or at the further meeting summoned under sub-section (6) the creditors do not, by ordinary resolution, appoint a special assignee, or if at the further meeting they make an appointment of which the Court disapproves on any of the grounds mentioned in sub-section (4), the official assignee shall be the assignee throughout the bankruptcy.

(8) Subject to the provisions of this Act with respect to security and the approval of the Court, the creditors, if they think fit, may, by ordinary resolution, appoint more persons than one to the office of special assignee; and, where more persons than one are appointed, the creditors shall declare whether any act required or authorised to be done by the special assignee is to be done by all or any one or more of those persons, all of whom are in this Act included under the term "special assignee," and shall be joint-tenants of the property of the bankrupt with right of survivorship.

(9) Where the Court disapproves of the appointment of any one of more persons than one

The Indian Bankruptcy Bill, 1886.
(Part V.—Special Assignees.—Section 78.)

appointed to the office of special assignee, it will be deemed, subject to the next following sub-section, to disapprove of the appointment of all of them.

(10) Provided, with respect to sub-sections (6), (7), (8) and (9), that, where the creditors resolve to appoint a special assignee, or more persons than one to the office of special assignee, they may appoint one or more persons to be substituted in succession in the place of the person first named, or of one or more of the persons first named, in the event of his or their declining to accept the office of special assignee, or failing to give security, or not being approved of by the Court.

(11) The creditors may, by ordinary resolution, at a meeting specially called for that purpose, of which seven days' notice has been given, remove a special assignee appointed by them, and may, at the same or any subsequent meeting, appoint another person to fill the vacancy as hereinafter provided in the case of a vacancy in the office of special assignee.

(12) If the Court is of opinion that a special assignee appointed by the creditors is guilty of misconduct, or fails to perform his duties under this Act, the Court may remove him from his office.

(13) If a vacancy occurs in the office of special assignee, the creditors at a meeting may appoint a person to fill the vacancy, and thereupon the same proceedings shall be taken as in the case of a first appointment.

(14) The official assignee shall, on the requisition of any creditor, summon a meeting for the purpose of filling any such vacancy.

(15) If the creditors do not within four weeks after the occurrence of a vacancy appoint a person to fill the vacancy, the official assignee shall be an assignee during the remainder of the bankruptcy.

(16) During any vacancy in the office of special assignee the official assignee shall act as assignee.

78. Where a special assignee has been appointed under the last foregoing section, the property of the bankrupt shall vest in the special assignee without any conveyance or assignment for the purpose: and, save as provided by any general rules and any general or special orders of the Court, if the foregoing provisions of this Act referring to an official assignee shall, so far as may be, be construed as referring to the special assignee, subject to the following provisions, namely:—

(a) the references to the official assignee in sections 8, 9, 11 and 13 to 18 (both inclusive), section 20, sub-section (3), section 26, sub-sections (2), (4) and (6), sections 58 to 62 (both inclusive), and section 77, apply to the official assignee only;

(b) the special assignee shall not do any of the things mentioned in section 49 without the permission of the Court, or, if the Court so directs, of the prescribed officer, given on an application to the Court or to the prescribed officer, as the case may be, for permission to do the particular thing or things in the specified case or cases stated in the application;

(c) with his application to the Court for leave to declare a final dividend under section 54, the special assignee shall, when he has not realised all the property of the

bankrupt, submit a report by the prescribed officer as to the sufficiency of the grounds for his opinion that he has realised so much of the property of the bankrupt as can be realised without needlessly protracting the proceedings in bankruptcy;

(d) the special assignee shall not, without the [46 & 47 Vic
previous sanction of the Court, or, if the c. 52, s. 64.] Court so directs, of the prescribed officer, appoint the bankrupt himself to discharge any of the duties mentioned in sub-section (1) of section 56, or make any allowance to the bankrupt under sub-section (2) of that section;

(e) the remuneration, if any, of the special [46 & 47 Vic
assignee shall be in the nature of a com- c. 52, s. 72.] mission or percentage, of which one part shall be payable on the amount realised, after deducting any sums paid to secured creditors out of the proceeds of their securities, and the other part on the amount distributed in dividend, and it shall be fixed by the creditors, by ordinary resolution, at the meeting at which he is appointed, but may be reduced by the Court, and shall be so adjusted that the expense of administration by a special assignee shall not exceed the expense of administration by the official assignee;

(f) the special assignee shall not, under any [46 & 47 Vic
circumstances whatever, make any ar- c. 52, s. 72.] rangement for or accept from the bankrupt, or any legal practitioner, auctioneer or any other person that may be employed about the bankruptcy, any gift, remuneration or pecuniary or other consideration or benefit whatever beyond the remuneration fixed by the creditors and payable out of the estate, nor shall he make any arrangement for giving up, or give up, any part of the remuneration payable to him in any capacity, to the bankrupt or to any legal practitioner or other person that may be employed about the bankruptcy;

(g) when no remuneration has been voted to [46 & 47 Vic
the special assignee, he shall be allowed c. 52, s. 72.] out of the bankrupt's estate such proper costs and expenses incurred by him in or about the proceedings of the bankruptcy as the prescribed officer may allow;

(h) the special assignee shall supply the official [46 & 47 Vic
assignee with such information, and give c. 52, s. 68.] him such access to, and facilities for inspecting, the bankrupt's books and documents, and generally shall give him such aid, as may be requisite for enabling the official assignee to perform his duties under this Act;

(i) where the special assignee has not previ- [46 & 47 Vic
ously resigned or vacated or been removed c. 52, s. 83.] from his office, his release under section 71 shall operate as a removal of him from his office;

(j) the vote of the special assignee, or of his [46 & 47 Vic
partner, clerk, legal practitioner or legal c. 52, s. 88.] practitioner's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the special assignee.

The Indian Bankruptcy Bill, 1886.
(Part VI.—Constitution, Procedure and Powers of Court.—Sections 79-87.)

PART VI.

CONSTITUTION, PROCEDURE AND POWERS OF COURT.

Jurisdiction.

[46 & 47 Vic.,
c. 52, s. 92.]

79. (1) The Courts having jurisdiction in bankruptcy under this Act shall be—
Courts having jurisdiction in bankruptcy.

(a) the High Courts of Judicature at Fort William, Madras and Bombay;

(b) the Court of the Recorder of Rangoon; and

(c) subject to any limitation which the Governor General in Council may impose with respect to the extent of the jurisdiction to be exercised, such other Civil Courts as the Local Government, with the previous sanction of the Governor General in Council, may, from time to time, appoint in this behalf in the territories administered by it.

[New.]

80. For the purposes of this Act the local limits of the jurisdiction of the said Courts shall, subject to the provisions of section 4, sub-section (1), be the following, namely:—

(a) the local limits of the jurisdiction of each of the said High Courts of Judicature shall be the local limits for the time being of its ordinary original civil jurisdiction;

(b) the local limits of the jurisdiction of the Court of the Recorder of Rangoon shall comprise the towns of Rangoon, Moulmein, Akyah and Bassein;

(c) the local limits of the jurisdiction of a Court appointed by a Local Government shall be such as may, from time to time, be fixed, with the previous sanction of the Governor General in Council, by that Local Government within the territories administered by it.

[11 & 12
Vic., c. 21,
s. 3.]

[46 & 47 Vic.,
c. 52, s. 91(2)]

81. All matters in respect of which jurisdiction is given by this Act shall, where the Court consists of more Judges than one, be ordinarily transacted and disposed of by or under the direction of one of the Judges of that Court, and the Chief Justice or senior Judge shall, from time to time, assign a Judge for that purpose.

[16 & 17 Vic.,
c. 52, s. 97(2)]

82. Any proceedings in bankruptcy pending in any Court appointed by the Local Government of a province under section 79 may, at any time, and at any stage thereof, and either with or without application on the part of the parties thereto, be transferred by the High Court of the province to itself or to any Court appointed as aforesaid in the province.

[16 & 17 Vic.,
c. 52, s. 97,
(3).]

83. If any question of law arises in any bankruptcy proceeding in a Court appointed by the Local Government of a province under section 79, and all the parties to the proceeding desire, or one of them and the Judge of the Court desire, to have the question determined in the first instance in the High Court of the province, the Judge shall state the facts, in the form of a special case, for the opinion of that High Court. The special case and the proceedings, or such of them as may be required, shall be transmitted to the High Court for the purposes of the determination.

84. Subject to the provisions of this Act and to general rules, the Judge of a Court exercising jurisdiction in bankruptcy may exercise in chambers the whole or any part of his jurisdiction.

85. (1) Subject to general rules limiting the powers conferred by this section, the High Court of Judicature at Fort William, Madras or Bombay may, from time to time, direct that, in any matters in respect of which jurisdiction is given to the Court by this Act, an officer of the Court or Judge of the Presidency Small Cause Court appointed by it in this behalf shall have all or any of the powers in this section mentioned; and any order made or act done by such officer or Judge in the exercise of the said powers shall be deemed the order or act of the High Court.

(2) The powers referred to in sub-section (1) are the following, namely:—

(a) to hear bankruptcy petitions, and to make receiving orders and adjudications thereon;

(b) to hold the public examination of debtors;

(c) to grant orders of discharge;

(d) to approve compositions or schemes of arrangement;

(e) to make interim orders in any case of urgency;

(f) to make any order or exercise any jurisdiction which by any rule in that behalf is prescribed as proper to be made or exercised in chambers;

(g) to hear and determine any unopposed or *ex parte* application;

(h) to summon and examine any person known or suspected to have in his possession effects of the debtor, or to be indebted to him, or to be capable of giving information respecting the debtor, his dealings or property.

86. The Court of the Recorder of Rangoon, and any Court appointed by a Local Government under section 79, shall, for the purposes of its bankruptcy jurisdiction, in addition to its ordinary powers, have all the powers and jurisdiction possessed by any of the said High Courts of Judicature; and the orders of the Court may be enforced accordingly in manner prescribed.

87. (1) Subject to the provisions of this Act, every Court having jurisdiction in bankruptcy under this Act shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, which may arise in any case of bankruptcy coming within the cognizance of the Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

(2) A Court having jurisdiction in bankruptcy under this Act shall not be subject to be restrained in the execution of its powers under this Act by the order of any other Court, nor shall any appeal lie from its decisions, except in manner directed by this Act.

The Indian Bankruptcy Bill, 1886.
(Part VI.—Constitution, Procedure and Powers of Court.—Sections 88-95.)

(3) Where a receiving order has been made in any Court having jurisdiction in bankruptcy under this Act, and that Court consists of more Judges than one, the Judge by whom the order was made, or, where the order was made by an authority empowered in that behalf under section 85, the Judge assigned under section 81 or the transaction and disposal of matters in bankruptcy, shall have power, if he sees fit, without any further consent, to order the transfer of himself of any suit or other proceeding by or against the bankrupt pending before any other Judge or Judges of the Court.

(4) Where default is made by an assignee, debtor or other person in obeying any order or direction given by the Court or by an official assignee or any other officer of the Court under any power conferred by this Act, the Court may, on the application of the official assignee or other duly authorised person, or of its own motion, order the defaulting assignee, debtor or person to comply with the order or direction so given; and the Court may also, if it thinks fit, upon any such application make an immediate order for the committal of the defaulting assignee, debtor or other person:

Provided that the power given by this sub-section shall be deemed to be in addition to and not in substitution for any other right or remedy in respect of the default.

Appeals.

88. (1) Every Court having jurisdiction in bankruptcy under this Act may review, rescind or vary any order made by it under its bankruptcy jurisdiction.

(2) Orders in bankruptcy matters shall, at the instance of any person aggrieved, be subject to appeal as follows:—

(a) an appeal from an order made by an officer of the Court or Judge of a Presidency Small Cause Court empowered under section 85 shall lie to the Judge assigned under section 81 for the transaction and disposal of matters in bankruptcy;

(b) an appeal from an original order made by a single Judge or bench of a High Court consisting of more Judges than one shall, if appeals lie to the High Court from orders passed by a single Judge or Bench thereof in exercise of its original civil jurisdiction, lie to the High Court in accordance with the rules applicable to those appeals;

(c) an appeal from an order of the Court of the Recorder of Rangoon shall lie to the Special Court;

(d) an appeal from an order of a Court appointed by a Local Government under section 79, not being a High Court to which clause (b) of this sub-section applies, shall lie, if the Court is not a High Court, to the High Court of the province, and, if the Court is a High Court, as the Governor General in Council may from time to time direct;

(e) no appeal shall be entertained except in conformity with such general rules as may for the time being be in force in relation to the appeal.

Procedure.

89. (1) Subject to the provisions of this Act and to general rules, the Discretionary powers of the Court. costs of and incidental to any proceeding in Court under this Act shall be in the discretion of the Court.

(2) The Court may at any time adjourn any proceedings before it upon such terms, if any, as it thinks fit to impose.

(3) The Court may at any time amend any written process or proceeding under this Act upon such terms, if any, as it thinks fit to impose.

(4) Where by this Act or by general rules the time for doing any act or thing is limited, the Court may extend the time either before or after the expiration thereof, upon such terms, if any, as the Court thinks fit to impose.

(5) Subject to general rules, the Court may in any matter take the whole or any part of the evidence either *ex parte* or by interrogatories, or upon affidavit, or by commission beyond the limits of British India.

(6) For the purpose of approving a composition or scheme by joint debtors, the Court may, if it thinks fit, and on the report of the official assignee that it is expedient so to do, dispense with the public examination of one of the joint debtors if he is unavoidably prevented from attending the examination by illness or absence abroad.

90. Where two or more bankruptcy petitions are presented against the same debtor or against joint debtors, the Court may consolidate the proceedings or any of them, on such terms as the Court thinks fit.

91. Where the petitioner does not proceed with due diligence on his petition, the Court may substitute as petitioner any other creditor to whom the debtor is indebted in the amount required by this Act in the case of the petitioning creditor, or may give the carriage of proceedings to the official assignee.

92. If a debtor by or against whom a bankruptcy petition has been presented dies, the proceedings in the matter shall, unless the Court otherwise orders, be continued as if he were alive.

93. The Court may, at any time, for sufficient reason, make an order staying the proceedings under a bankruptcy petition, either altogether or for a limited time, on such terms and subject to such conditions as the Court thinks just.

94. Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present a petition against any one or more partners of the firm without including the others.

95. Where there are more respondents than one to a petition, the Court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them.

*The Indian Bankruptcy Bill, 1886.**(Part VII.—Small Bankruptcies.—Part VIII.—Fraudulent Debtors and Creditors.—Sections 96-102.)*

96. Where a receiving order has been made on property of partners a bankruptcy petition against to be vested in same or by one member of a partnership, any other bankruptcy petition against or by a member of the same partnership shall be filed in or transferred to the Court in which the first-mentioned petition is in course of prosecution; and, if an assignee is acting in respect of the property of the first-mentioned member of the partnership, the same assignee shall, unless the Court otherwise directs, act in respect of the property of the last-mentioned member, and the Court may give such directions for consolidating the proceedings under the petitions as it thinks just.

97. Where a member of a partnership is adjudged bankrupt, the Court may authorise the assignee to commence and prosecute any suit or other legal proceeding in the names of the assignee and of the bankrupt's partner; and any release by the partner of the debt or demand to which the proceeding relates shall be void; but notice of the application for authority to commence the proceeding shall be given to him, and he may show cause against it, and on his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the proceeding, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the Court directs.

98. Where a bankrupt is a contractor in respect of any contract jointly with any other person, that other person may sue or be sued in respect of the contract without the joinder of the bankrupt.

99. Any two or more persons, being partners, or any person carrying on business under a partnership name, may take proceedings or be proceeded against under this Act in the name of the firm; but in that case the Court may, on application by any person interested, order the names of the persons who are partners in the firm, or the name of the person carrying on business under a partnership name, to be disclosed in such manner, and verified on oath or otherwise, as the Court may direct.

Annulment of Adjudication.

100. (1) Where in the opinion of the Court a debtor ought not to have been adjudged bankrupt, or where it is proved to the satisfaction of the Court that the debt of the bankrupt are paid in full, or where in some part of British India, or of Her Majesty's dominions elsewhere, beyond the limits within which the Court ordinarily exercises civil jurisdiction, proceedings are pending for the distribution of the estate and effects of the bankrupt among his creditors under this Act or under the Bankrupt or Insolvent Laws of that part of Her Majesty's dominions, and it appears to the Court that the distribution ought to take place in that part of British India or of Her Majesty's dominions elsewhere, the Court may, on the application of any person interested, by order, annul the adjudication.

done, by the assignee or other person acting under his authority, or by the Court, shall be valid, but the property of the debtor who was adjudged bankrupt shall vest in such person as the Court may appoint, or, in default of any such appointment, revert to the debtor for all his estate or interest therein, on such terms and subject to such conditions, if any, as the Court may declare by order.

(2) Notice of the order annulling an adjudication shall be forthwith published in the prescribed manner.

(4) For the purposes of this section any debt disputed by a debtor shall be considered as paid in full if the debtor enters into a bond, in such sum and with such sureties as the Court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into Court.

PART VII.

SMALL BANKRUPTCIES.

101. When a petition is presented by or against a debtor, if the Court is satisfied by affidavit or otherwise, or the official assignee reports to the Court, that the property of the debtor is not likely to exceed in value three thousand rupees, the Court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications, namely:—

- (a) if the debtor is adjudged bankrupt, the official assignee shall be the assignee in the bankruptcy;
- (b) no appeal shall lie from any order of the Court, except by order of the Court;
- (c) the estate shall, where practicable, be distributed in a single dividend;
- (d) such other modifications may be made in the provisions of this Act as may be prescribed with the view of saving expense and simplifying procedure; but nothing in this section shall permit the modification of the provisions of this Act relating to the examination or discharge of the debtor.

PART VIII.

FRAUDULENT DEBTORS AND CREDITORS.

102. (1) "The Court" in this Part means the Court before which an accused person is tried and, with respect to matters which it is the duty of a jury to decide or determine, includes the jury where the trial of the accused is by jury.

(2) Nothing in this Part shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Part, or from being liable under that other law to any other or higher punishment

The Indian Bankruptcy Bill, 1886.
(Part VIII.—*Fraudulent Debtors and Creditors.*—Sections 103-164.)

103. Any person against whom a receiving order has been made under this Act shall, in each of the cases following, be punished with imprisonment which may extend to two years, or with fine, or with both; that is to say—

Punishment of fraudulent debtors.

- (a) if he does not, to the best of his knowledge and belief, fully and truly discover to the assignee administering his estate for the benefit of his creditors all his property, and how, and to whom, and for what consideration, and when, he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any), or laid out in the ordinary expenses of his family, unless the Court is satisfied that he had no intent to defraud;
- (b) if he does not deliver up to that assignee, or as he directs, all such part of his property as is in his custody or under his control, and which he is required by law to deliver up, unless the Court is satisfied that he had no intent to defraud;
- (c) if he does not deliver up to that assignee, or as he directs, all books, documents, papers and writings in his custody or under his control relating to his property or affairs, unless the Court is satisfied that he had no intent to defraud;
- (d) if, after the presentation of a bankruptcy petition by or against him, or within four months next before the presentation thereof, he conceals any part of his property to the value of one hundred rupees or upwards, or conceals any debt due to or from him, unless the Court is satisfied that he had no intent to defraud;
- (e) if, after the presentation of a bankruptcy petition by or against him, or within four months next before the presentation thereof, he fraudulently removes any part of his property of the value of one hundred rupees or upwards;
- (f) if he makes any material omission in any statement relating to his affairs, unless the Court is satisfied that he had no intent to defraud;
- (g) if, knowing or believing that a false debt has been proved by any person under the bankruptcy, he fails for the period of one month to inform the assignee aforesaid thereof;
- (h) if, after the presentation of a bankruptcy petition by or against him, he prevents the production of any book, document, paper or writing affecting or relating to his property or affairs, unless the Court is satisfied that he had no intent to conceal the state of his affairs or to defeat the law;
- (i) if, after the presentation of a bankruptcy petition by or against him, or within four months next before the presentation thereof, he conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation or falsification of, any book or document affecting or relating to his property or affairs, unless the Court is satisfied that he had no intent to conceal the state of his affairs

(j) if, after the presentation of a bankruptcy petition by or against him, or within four months next before the presentation thereof, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless the Court is satisfied that he had no intent to conceal the state of his affairs or to defeat the law;

(k) if, after the presentation of a bankruptcy petition by or against him, or within four months next before the presentation thereof, he fraudulently parts with, alters or makes any omission in, or is privy to the fraudulently parting with, altering or making any omission in, any document affecting or relating to his property or affairs;

(l) if, after the presentation of a bankruptcy petition by or against him, or at any meeting of his creditors within four months next before the presentation thereof, he attempts to account for any part of his property by fictitious losses or expenses;

(m) if while undischarged he obtains credit to the extent of two hundred rupees or upwards from any person without informing that person that he is an undischarged bankrupt: [46 & 47 c. 52, s. 8]

(n) if, within four months next before the presentation of a bankruptcy petition by or against him, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same;

(o) if, within four months next before the presentation of a bankruptcy petition by or against him, he, being a trader, obtains, under the false pretence of carrying on business and dealing in the ordinary way of his trade, any property on credit, and has not paid for the same, unless the Court is satisfied that he had no intent to defraud;

(p) if, within four months next before the presentation of a bankruptcy petition by or against him, he, being a trader, pawns, pledges or disposes of otherwise than in the ordinary way of his trade any property which he has obtained on credit and has not paid for, unless the Court is satisfied that he had no intent to defraud;

(q) if he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to any agreement with reference to his affairs or his bankruptcy.

101. If, after the presentation of a bankruptcy petition by or against him, or within four months next before the presentation thereof, any person against whom a receiving order is made under this Act quits British India and takes with him, or attempts or makes preparation to quit British India and to take with him, any part of his property to the amount of two hundred rupees or upwards, which ought by law to be divided amongst his creditors, he shall (un- [32 & 33 c. 62, s. 1 46 & 47 c. 52, s. 1]

Liability for absconding with property.

thereof, any person against whom a receiving order is made under this Act quits British India and takes with him, or attempts or makes preparation to quit British India and to take with him, any part of his property to the amount of two hundred rupees or upwards, which ought by law to be divided amongst his creditors, he shall (un-

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(Part IX.—Supplemental Provisions.—Sections 105-112.)

to defraud) be punished with imprisonment which may extend to two years, or with fine, or with both.

105. Any person shall in each of the cases following be punished with imprisonment which may extend to one year, or with fine, or with both; that is to say—

- (a) if in incurring any debt or liability he has obtained credit under false pretences or by means of any other fraud;
- (b) if he has, with intent to defraud his creditors, or any of them, made, or caused to be made, any gift, delivery or transfer of or any charge on his property;
- (c) if he has, with intent to defraud his creditors, concealed or removed any part of his property since or within two months before the date of any unsatisfied decree or order for payment of money obtained against him.

106. If any creditor, in any bankruptcy composition or arrangement with creditors actually and with intent to defraud makes any false claim, or any proof, declaration or statement of account which is untrue in any material particular, he shall be punished with imprisonment which may extend to one year, or with fine, or with both.

107. Where a debtor makes any composition or arrangement with his creditors, he shall remain liable for the unpaid balance of any debt which he incurred or increased, or whereof before the date of the arrangement or composition he obtained forbearance, by any fraud, provided the fraudulent creditor has not assented to the arrangement or composition otherwise than by proving such debt and accepting dividends.

108. Where the assignee reports to any Court exercising jurisdiction in bankruptcy that in his opinion a debtor against whom a receiving order has been made under this Act has been guilty of any offence under this Act, or under section 121, 122, 123 or 124 of the Indian Penal Code or any amendment thereof, where any such Court is satisfied upon the representation of any creditor that there is ground to believe that the debtor has been guilty of any offence as aforesaid, that Court shall, if it appears to it that there is a reasonable probability that the debtor may be convicted, order the assignee to prosecute him for the offence.

109. Where a debtor has been guilty of any offence he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition or scheme of arrangement has been accepted or approved.

PART IX.

SUPPLEMENTAL PROVISIONS.

Application of Act.

110. A married woman shall, in respect of her separate property (if any), be subject to this Act in the

111. A receiving order shall not be made against any corporation, or against any partnership, association or company registered under any enactment relating to companies for the time being in force.

112. (1) Any creditor of a deceased debtor in whose debt would have been sufficient to support a bankruptcy petition against the debtor, had he been alive, may present to the Court a petition in the prescribed form praying for an order for the administration of the estate of the deceased debtor according to the law of bankruptcy.

(2) Upon the prescribed notice being given to the executor, administrator or other legal representative of the deceased debtor, the Court may in the prescribed manner, upon proof of the petitioner's debt, unless the Court is satisfied that there is a reasonable probability that the estate will be sufficient for the payment of the debts owing by the deceased, make an order for the administration in bankruptcy of the deceased debtor's estate, or may upon cause shown dismiss the petition with or without costs.

(3) An order of administration under this section shall not, in cases where a grant of probate or administration is required to establish a title as legal representative, be made until the expiration of two months from the date of the grant of probate or letters of administration, unless with the concurrence of the legal representative of the deceased debtor, or unless the petitioner proves to the satisfaction of the Court that the debtor committed an act of bankruptcy within three months prior to his decease.

(4) A petition for administration under this section shall not be presented to the Court after proceedings have been commenced in any Court of Justice for the administration of the deceased debtor's estate; but that Court may, in that case, on the application of any creditor, and on proof that the estate is insufficient to pay its debts, transfer the proceedings to the Court exercising jurisdiction in bankruptcy; and thereupon the last-mentioned Court may, in the prescribed manner, make an order for the administration of the estate of the deceased debtor, and the like consequences shall ensue as under an administration order made on the petition of a creditor.

(5) Upon an order being made for the administration of a deceased debtor's estate under this section, the property of the debtor shall vest in the official assignee of the Court, and he shall forthwith proceed to realize and distribute the same in accordance with the provisions of this Act.

(6) With the modifications hereinafter mentioned, all the provisions of Part III of this Act, relating to the administration of the property of a bankrupt, shall, so far as the same are applicable, apply to the case of an administration order under this section in like manner as to an order of adjudication under this Act.

(7) In the administration of the property of the deceased debtor under an order of administration, the official assignee shall have regard to any claims by the legal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate; and those claims shall be

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(Part IX.—Supplemental Provisions.—Sections 113-119.)

payable in full, out of the debtor's estate, in priority to all other debts.

(8) If, on the administration of a deceased debtor's estate, any surplus remains in the hands of the official assignee after payment in full of all the debts due from the debtor, together with the costs of the administration and interest as provided by this Act in case of bankruptcy, the surplus shall be paid over to the legal representative of the deceased debtor's estate, or dealt with in such other manner as may be prescribed.

(9) Notice to the legal representative of a deceased debtor of the presentation by a creditor of a petition under this section shall, in the event of an order for administration being made thereon, be deemed to be equivalent to notice of an act of bankruptcy, and after the notice no payment or transfer of property made by the legal representative shall operate as a discharge to him as between himself and the official assignee. Save as aforesaid nothing in this section shall invalidate any payment made or act or thing done in good faith by the legal representative before the date of the order for administration.

(10) Unless the context otherwise requires, "Court," in this section, means the Court exercising jurisdiction in bankruptcy within the local limits of the jurisdiction of which the debtor resided or carried on business for the greater part of the six months immediately prior to his decease; and "creditor" means one or more creditors qualified to present a bankruptcy petition as in this Act provided.

(11) General rules, for carrying into effect the provisions of this section, may be made in the same manner and to the like effect and extent as in bankruptcy.

General Rules.

113. (1) The High Court of a province may, from time to time, with the concurrence of the Governor General in Council, make, revoke and alter general rules for carrying into effect the objects of this Act.

(2) All general rules made under the foregoing provisions of this section shall be judicially noticed, and shall have effect as if enacted by this Act.

(3) After the commencement of this Act no general rule under the provisions of this section shall come into operation until the expiration of one month after the same has been made and issued.

Fees.

114. The High Court of a province, with the previous sanction of the Governor General in Council, may from time to time make rules prescribing the fees and percentages to be charged for or in respect of proceedings under this Act, and the fees to be charged for or in respect of proceedings instituted under Chapter XX of the Code of Civil Procedure in any Court having jurisdiction under this Act, and may direct by whom and in what manner the same are to be collected and accounted for, and to what account they shall be paid.

Evidence.

115. (1) A copy of the *Gazette of India*, or of the *Gazette of a Local Government*, containing any notice inserted therein in pursuance of this Act

or the rules made under this Act, shall be evidence of the facts stated in the notice.

(2) The production of a copy of the *Gazette* containing any notice of a receiving order, or of an order adjudging a debtor bankrupt, shall be conclusive proof in all legal proceedings of the order having been duly made, and of its date.

116. (1) A minute of proceedings at a meeting of creditors under this Act, signed at the same or the next ensuing meeting by a person describing himself as, or appearing to be, chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(2) Until the contrary is proved, every meeting of creditors in respect of the proceedings whereof a minute has been so signed shall be deemed to have been duly convened and held, and all resolutions passed or proceedings had thereat to have been duly passed or had.

117. Any petition or copy of a petition in bankruptcy, any order or certificate or copy of an order or certificate made by any Court having jurisdiction in bankruptcy, any instrument, affidavit or document or copy of an instrument, affidavit or document made or used in the course of any bankruptcy proceedings, or other proceedings had under this Act, shall, if it appears to be sealed with the seal of any Court having jurisdiction in bankruptcy, or purports to be signed by any Judge thereof, or is certified as a true copy by any Registrar thereof, be receivable in evidence in all legal proceedings whatever.

118. Subject to general rules, any affidavit may be used in a Bankruptcy Court if it is sworn—

(1) in British India, before—

(a) any Court or Magistrate,

(b) any officer whom the High Court of a province may appoint in this behalf, or

(c) any officer appointed by any other Court which the Local Government has generally or specially empowered in this behalf;

(2) in England, before any person authorised to administer oaths in Her Majesty's High Court of Justice, or in the Court of Chancery of the County Palatine of Lancaster, or before any Registrar of a Bankruptcy Court, or before any officer of a Bankruptcy Court authorised in writing in that behalf by the Judge of the Court;

(3) in Scotland or in Ireland, before a Judge Ordinary, Magistrate or Justice of the Peace; and

(4) in any other place, before a Magistrate or Justice of the Peace or other person qualified to administer oaths in that place (he being certified to be a Magistrate or Justice of the Peace, or qualified as aforesaid, by a British Minister or British Consul or British Political Agent or by a notary public).

119. In case of the death of the debtor, or of a witness whose evidence has been received by any Court in any proceeding under this Act, the

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(Part IX.—Supplemental Provisions.—Sections 120-130.)

deposition of the person so deceased, purporting to be sealed with the seal of the Court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposited to.

120. Every Court having jurisdiction in bankruptcy under this Act shall have a seal describing the Court in such manner as may be directed by order of the High Court of the province, and judicial notice shall be taken in all legal proceedings of the seal, and of the signature of the Judge or Registrar of any Court having that jurisdiction.

121. A certificate of the Court, that a person has been appointed or is an assignee under this Act, shall be conclusive proof of his having been appointed or being such assignee.

Time.

122. (1) Where by or under this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that limited time the same shall be taken as exclusive of the day of that date or of the happening of that event, and as commencing at the beginning of the next following day, and the act or proceeding shall be done or taken at latest on the last day of that limited time as so computed, unless the last day is a day on which the Court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court sits.

(2) Where by or under this Act any act or proceeding is directed to be done or taken on a certain day, then, if that day happens to be a day on which a Court does not sit, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court sits.

Notices.

123. All notices and other documents for the service of which no special mode is directed may be sent prepaid post letter to the last known address of the person to be served therewith.

Formal Defects.

124. (1) No proceeding in bankruptcy shall be invalid by any formal defect not to be objected to by any irregularity unless the Court before which an objection is made is of opinion that substantial justice has been caused by the defect or irregularity, and that the injustice cannot be remedied by the order of that Court.

(2) No defect or irregularity in the appointment of an assignee shall vitiate any act done by him in good faith.

Bankrupt Trustee.

125. Where a bankrupt is a trustee within the meaning of the Indian Trustee Act, 1850, the provisions of that Act shall have effect so as to authorise the appointment of a new trustee in substitution for the bankrupt (whether voluntarily resigning or not), if it appears expedient to do so, and all provisions of that Act, and of any other Act relative thereto, shall have effect accordingly.

Corporations, Firms and Lunatics.

126. For all or any of the purposes of this Act, [46 & 47 c. 52, s. 1] a corporation may act by any of its officers authorised in that behalf under the seal of the corporation; a firm may act by any of its members; and a lunatic may act by his committee, curator bonis or manager, or, when the matter is one in respect of which a Court of Wards has superintendence, by that Court or such person as it may appoint in this behalf.

Construction of former Acts, &c.

127. Whereby any enactment or instrument [46 & 47 c. 52, s. 1] reference is made to the 11 & 12 Vic., cap. 21 (*An Act to consolidate and amend the Laws relating to Insolvent Debtors in India*), the enactment or instrument shall, so far as may be, be construed and have effect as if reference were made therein to the corresponding provisions of this Act.

128. The provisions of this Act relating to the remedies against the property of a debtor, the priorities of debts, the effect of a composition or scheme of arrangement, and the effect of a discharge shall bind the Crown. [46 & 47 c. 52, s. 15]

129. Nothing in this Act, or in any transfer of [11 & 12 Vic. c. 21, s. 46 & 47 c. 52, s. 151] jurisdiction effected thereby, shall take away or affect any right of audience that any person may have had immediately before the commencement of this Act; and all attorneys or other persons who had the right of audience before the Courts for the Relief of Insolvent Debtors shall have the like right of audience in bankruptcy matters in the High Courts of Judicature at Fort William, Madras and Bombay, respectively.

Unclaimed Funds or Dividends.

130. (1) Where an assignee under any bankruptcy, composition or scheme pursuant to this Act has under his control any unclaimed dividend which has remained unclaimed for more than six months, or where, after making a final dividend, he has in his hands or under his control any unclaimed or undistributed money arising from the property of the debtor, or where, after the passing of this Act, any unclaimed or undistributed fund or dividend in the hands or under the control of an assignee under the 11 & 12 Vic., c. 21 (*An Act to consolidate and amend the Laws relating to Insolvent Debtors in India*) has remained or remains unclaimed or undistributed for six months after the same became claimable or distributable, or in any other case for two years after the receipt thereof by the assignee, the assignee shall forthwith pay it into the Court for credit, if it is held for an estate, to the Bankruptcy Estates Account of that Court, or, if it is held as a dividend for a creditor, to the Bankruptcy Dividends Account of that Court. [46 & 47 Vic. c. 52, s. 162]

(2) In the case of an assignee under the Statute aforesaid in the Court for the Relief of Insolvent Debtors at Calcutta, Madras or Bombay, or in the Court of the Recorder of Rangoon, "the Court" in sub-section (1) means the High Court of Judicature at Fort William, Madras or Bombay, or the Court of the Recorder of Rangoon, as the case may be.

The Indian Bankruptcy Bill, 1886.
(Part IX.—Supplemental Provisions.—Sections 131-135.)

(3) The Court, with the concurrence of the Governor General in Council, may, from time to time, appoint a person to collect and get in all such unclaimed or undistributed moneys, funds or dividends; and for the purposes of this section the Court shall have, and at the instance of the person so appointed or of its own motion may exercise, all the powers conferred by this Act with respect to the discovery and realization of the property of a debtor, and the provisions of Part I of this Act with respect thereto shall, with any necessary modifications, apply to proceedings under this section.

(4) The provisions of this section shall not, except as expressly declared herein, deprive any person of any larger or other right or remedy to which he may be entitled against the assignee.

131. Moneys transferred to the credit of the Bankruptcy Dividends Account, which are not paid within six years from the date of their transfer to that account shall be carried to the account and credit of the Government of India, unless the Court, on the motion of a person interested, otherwise directs.

132. Any person claiming to be entitled to any moneys paid into the Bankruptcy Estates Account or the Bankruptcy Dividends Account pursuant to section 30, or carried to the account and credit of the Government of India pursuant to section 131, may apply to the Court for an order for payment to him of the same; and the Court, if satisfied that the person claiming is entitled, shall make an order for payment to him of the sum due:

Provided that, before making an order for the payment of a sum which has been carried to the account and credit of the Government of India, the Court shall cause a notice to be served on such officer as the Governor General in Council may point in this behalf, calling on the officer to show cause, within one month from the date of the service of the notice, why the order should not be made.

133. (1) Where in the books of the official assignee of the Court for the Relief of Insolvent Debtors at Calcutta, Madras or Bombay, or of the Court of the Recorder of Rangoon, a dividend in respect of the claim of a person who is named in a schedule as a creditor of an insolvent in proceedings under the 11 & 12 Vic., 21 (*An Act to consolidate and amend the laws relating to Insolvent Debtors in India*), but has not established his title to the dividend, has been standing to the credit of the estate of the insolvent for a longer period than six years from the date of the declaration of the dividend, the official assignee of the High Court of Judicature at Fort William, Madras or Bombay, or of the Court of the Recorder of Rangoon, as the case may be, shall, at the prescribed time and in the prescribed form, file an account of it in Court, and publish the account in two successive issues of the local official Gazette.

(2) If the dividend is not claimed within six months from the date of the second publication of the account in the Gazette, it shall, after deduction therefrom of the cost of preparing, filing and publishing the account, be divided rateably

among the creditors of the estate who have proved their debts or demands.

Debtor's Books.

134. (1) No person shall, as against the assignee, be entitled to withhold possession of the books or accounts belonging to the debtor or to set up any lien thereon.

(2) Any creditor of the bankrupt may, subject to the control of the Court, inspect at all reasonable times, personally or by agent, any such books in the possession of the assignee.

Interpretation.

135. (1) In this Act, unless the context otherwise requires,—

- (1) "province" means the territories under the administration of a Local Government;
- (2) "High Court of the province" and "High Court of a province" mean the highest Civil Court of appeal for a province;
- (3) "the Court" (except in Part VIII) means the Court having jurisdiction in bankruptcy under this Act;
- (4) "affidavit" includes declarations under any legislative enactment, affirmations, and attestations on honour;
- (5) "assignee" means an official assignee or special assignee;
- (6) "available act of bankruptcy" means any act of bankruptcy available for a bankruptcy petition at the date of the presentation of the petition on which the receiving order is made;
- (7) "debt provable in bankruptcy" or "provable debt" includes any debt or liability by this Act made provable in bankruptcy;
- (8) "general rules" includes forms;
- (9) "Government treasury" includes a bank which conducts treasury business for the Government;
- (10) "local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund;
- (11) "oath" includes affirmation, declaration under any legislative enactment, and attestation on honour;
- (12) "ordinary resolution" means a resolution decided by a majority in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution;
- (13) "prescribed" means prescribed by general rules within the meaning of this Act;
- (14) "property" includes money, goods, things in action, land and every other description of property, whether moveable or immoveable; also, obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as above defined;
- (15) "schedule" means a schedule to this Act;

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(Part IX.—Supplemental Provisions.—Section 136.)
(The First Schedule.—Meetings of Creditors.)

(16) "secured creditor" means a person holding a mortgage, charge or lien on the property of the debtor, or any part thereof, as a security for a debt due to him from the debtor;

(17) "sheriff" includes any officer charged with the execution of a writ or other process;

(18) "special resolution" means a resolution decided by a majority in number and three-fourths in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution.

(2) The schedules to this Act shall be construed and have effect as part of the Act.

Repeal.

46 & 47 Vic., 136. (1) The enactments described in the third
s. 52, s. 169.] schedule are hereby repealed
as from the commencement
of this Act to the extent mentioned in that schedule.

(2) The repeal effected by this Act shall not affect—

(a) anything done or suffered before the commencement of this Act under any enactment repealed by this Act; or

(b) any right or privilege acquired, or duty imposed, or liability or disqualification incurred, under any enactment so repealed; or

(c) any fine, forfeiture or other punishment incurred or to be incurred in respect of any offence committed or to be committed against any enactment so repealed; or

(d) the institution or continuance of any proceeding or other remedy, whether under any enactment so repealed or otherwise, for ascertaining any such liability or disqualification, or recovering or enforcing any such fine, forfeiture or punishment as aforesaid.

(3) Notwithstanding the repeal effected by this Act, all proceedings in any Court or before a Judge of any Court under any of the enactments repealed pending at the commencement of this Act shall, except so far as any provision of this Act expressly applies to pending proceedings, continue, and those enactments shall, except as aforesaid, apply thereto, as if this Act had not passed.

(4) The person for the time being holding the office of official assignee for any of the High Courts of Judicature at Fort William, Madras and Bombay, or for the Court of the Recorder of Rangoon, shall, for the purposes of any such proceedings pending before that Court or any Judge thereof, be deemed to have been appointed official assignee under the repealed enactment.

2. The official assignee shall also, as soon as practicable, send to each creditor mentioned in the debtor's statement of affairs a notice of the time and place of the meeting, accompanied by a summary of the debtor's statement of affairs, including the causes of his failure, and any observations thereon which the official assignee may think fit to make; but the proceedings at the meeting shall not be invalidated by reason of any such notice or summary not having been sent or received before the meeting.

3. The meeting shall be held at such place as is in the opinion of the official assignee most convenient for the majority of the creditors.

4. The official assignee or the special assignee may at any time summon a meeting of creditors, and shall do so whenever so directed by the Court, or so requested in writing by one-fourth in value of the creditors.

5. Meetings subsequent to the meeting mentioned in section 17 shall be summoned by sending notice of the time and place thereof to each creditor at the address given in his proof, or, if he has not proved, at the address given in the debtor's statement of affairs, or at such other address as may be known to the person summoning the meeting.

6. The official assignee, or some person nominated by him, shall be the chairman at every meeting: Provided that, if the Court so directs, the chairman at any meeting subsequent to the meeting mentioned in section 17 shall be such person as the meeting by ordinary resolution appoint.

7. A person shall not be entitled to vote as a creditor at any meeting of creditors unless he has duly proved a debt provable in bankruptcy to be due to him from the debtor, and the proof has been duly lodged before the time appointed for the meeting.

8. A creditor shall not vote at any such meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained.

9. For the purpose of voting a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him, after deducting the value of his security. If he votes in respect of his whole debt, he shall be deemed to have surrendered his security, unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.

10. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the debtor, and against whom a receiving order has not been made, as a security in his hands, and to estimate the value thereof and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

11. It shall be competent to the assignee, within twenty-eight days after a proof estimating the value of a security as aforesaid has been made use of in voting at any meeting, to require the creditor to give up the security for the benefit of the creditors generally on payment of the value

THE FIRST SCHEDULE.

(See section 17.)

MEETINGS OF CREDITORS.

1. The official assignee shall summon the meeting mentioned in section 17 by giving not less than seven days' notice of the time and place thereof in the prescribed manner.

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(The Second Schedule.—Proof of Debts.)

so estimated, with an addition thereto of twenty per centum: Provided that, where a creditor has put a value on the security, he may at any time before he has been required to give up the security as aforesaid correct the valuation by a new proof, and deduct the new value from his debt, but in that case the addition of twenty per centum shall not be made if the assignee requires the security to be given up.

12. If a receiving order is made against one partner of a firm, any creditor to whom that partner is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled to vote thereat.

13. The chairman of a meeting shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the Court. If he is in doubt whether the proof of a creditor should be admitted or rejected, he shall mark the proof as objected to and shall allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

14. A creditor may vote either in person or by proxy.

15. Every instrument of proxy shall be in the prescribed form, and shall be issued by the official assignee, or, if a special assignee has been appointed, by the special assignee, and every insertion therein shall be in the handwriting of the person giving the proxy.

16. A creditor may give a general proxy to his manager or clerk, or any other person in his regular employment. In that case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor.

17. A creditor may give a special proxy to any person to vote at any specified meeting or adjournment thereof, for or against any specific resolution, or for or against any specified person as special assignee.

18. A proxy shall not be used unless it is deposited with the official assignee or special assignee before the meeting at which it is to be used.

19. Where it appears to the satisfaction of the Court that any solicitation has been used by or on behalf of a special assignee in obtaining proxies, or in procuring the special assigneeship, except by the direction of a meeting of creditors, the Court shall have power, if it thinks fit, to order that no remuneration shall be allowed to the person by whom or on whose behalf the solicitation has been exercised, notwithstanding any resolution of the creditors to the contrary.

20. A creditor may appoint the official assignee of the debtor's estate to act in manner prescribed as his general or special proxy.

21. The chairman of a meeting may, with the consent of the meeting, adjourn the meeting from time to time, and from place to place.

22. A meeting shall not be competent to act for any purpose, except the election of a chairman and the adjournment of the meeting, unless there are present, or represented thereat, at least three creditors, or all the creditors if their number does not exceed three.

23. If within half an hour from the time appointed for the meeting a quorum of creditors is not present or represented, the meeting shall be

adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than seven or more than twenty-one days.

24. The chairman of every meeting shall cause minutes of the proceedings at the meeting to be drawn up, and fairly entered in a book kept for that purpose, and the minutes shall be signed by him.

25. No person acting under either a general or a special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer in a position to receive any remuneration out of the estate of the debtor otherwise than as a creditor rateably with the other creditors of the debtor: Provided that where any person holds special proxies to vote for the appointment of himself as special assignee, he may use the said proxies and vote accordingly.

THE SECOND SCHEDULE.

(See section 32.)

PROOF OF DEBTS.

Proof in ordinary cases.

1. Every creditor shall prove his debt as soon as may be after the making of a receiving order.

2. A debt may be proved by delivering or sending through the post in a prepaid letter to the official assignee, or, if a special assignee has been appointed, to the special assignee, an affidavit verifying the debt.

3. The affidavit may be made by the creditor himself or by some person authorised by or on behalf of the creditor. If made by a person so authorised, it shall state his authority and means of knowledge.

4. The affidavit shall contain or refer to a statement or account showing the particulars of the debt, and shall specify the vouchers, if any, by which the same can be substantiated. The official assignee or special assignee may at any time call for the production of the vouchers.

5. The affidavit shall state whether the creditor is or is not a secured creditor.

6. A creditor shall bear the cost of proving his debt, unless the Court otherwise specially orders.

7. Every creditor who has lodged a proof shall be entitled to see and examine the proofs of other creditors at all reasonable times.

8. A creditor proving his debt shall deduct therefrom all trade discounts, but he shall not be compelled to deduct any discount, not exceeding five per centum on the net amount of his claim, which he may have agreed to allow for payment in cash.

Proof by Secured Creditors.

9. If a secured creditor realizes his security, he may prove for the balance due to him, after deducting the net amount realized.

10. If a secured creditor surrenders his security to the assignee for the general benefit of the creditors, he may prove for his whole debt.

11. If a secured creditor does not either realize or surrender his security, he shall, before ranking for dividend, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled

[46 & 47 Vb.
c. 52, Sch. II]

The Indian Bankruptcy Bill, 1886.
(The Second Schedule.—Proof of Debts.)

to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

12. (a) Where a security is so valued the assignee may at any time redeem it on payment to the creditor of the assessed value.

(b) If the assignee is dissatisfied with the value at which a security is assessed, he may require that the property comprised in any security so valued be offered for sale at such times and on such terms and conditions as may be agreed on between the creditor and the assignee or as, in default of agreement, the Court may direct. If the sale is by public auction, the creditor, or the assignee on behalf of the estate, may bid or purchase.

(c) Provided that the creditor may at any time, by notice in writing, require the assignee to elect whether he will or will not exercise his power of redeeming the security or requiring it to be realized, and if the assignee does not, within six months after receiving the notice, signify in writing to the creditor his election to exercise the power, he shall not be entitled to exercise it; and the equity of redemption, or any other interest in the property comprised in the security which is vested in the assignee, shall vest in the creditor, and the amount of his debt shall be reduced by the amount at which the security has been valued.

13. Where a creditor has so valued his security, he may at any time amend the valuation and proof on showing to the satisfaction of the assignee, or the Court, that the valuation and proof were made *bona fide* on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation; but every such amendment shall be made at the cost of the creditor, and upon such terms as the Court shall order, unless the assignee shall allow the amendment without application to the Court.

14. Where a valuation has been amended in accordance with the foregoing rule, the creditor shall forthwith repay any surplus dividend which he has received in excess of that to which he would have been entitled on the amended valuation or, as the case may be, shall be entitled to be paid out of any money for the time being available for dividend any dividend or share of dividend which he has failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment.

15. If a creditor after having valued his security subsequently realizes it, or if it is realized under the provisions of rule 12, the net amount realized shall be substituted for the amount of any valuation previously made by the creditor, and shall be treated in all respects as an amended valuation made by the creditor.

16. If a secured creditor does not comply with the foregoing rules, he shall be excluded from all share in any dividend.

17. Subject to the provisions of rule 12, a creditor shall in no case receive more than sixteen annas in the rupee and interest as provided by this Act.

*Taking Accounts of Property mortgaged and
Sale thereof.*

18. Upon application or motion by any person claiming to be a mortgagee of any part of the bank-

rupt's immoveable property, whether the mortgage is of a legal or equitable nature, the Court shall proceed to inquire whether the person is such mortgagee, and for what consideration and under what circumstances; and if it is found that the person is such mortgagee, and if no sufficient objection appears to the title of the person to the sum claimed by him under the mortgage, the Court shall direct such accounts and inquiries to be taken as may be necessary for ascertaining the principal, interest and costs due upon the mortgage, and the rents and profits, or dividends, interest or other proceeds received by the person, or by any other person by his order or for his use in case he has been in possession of the property over which the mortgage extends, or any part thereof; and the Court, if satisfied that there ought to be a sale, shall direct notice to be given in such Gazettes or newspapers as it thinks fit, when and where, and by whom and in what way, the property, or the interest therein so mortgaged, is to be sold, and that the sale be made accordingly, and that the assignee (unless it be otherwise ordered) shall have the conduct of the sale; but it shall not be imperative on any such mortgagee to make such application. At any such sale the mortgagee may bid and purchase.

19. All proper parties shall join in the conveyance to the purchaser, as the Court may direct.

20. The moneys arising from the sale shall be applied in the first place in payment of the costs, charges and expenses of the assignee, of and occasioned by the application to the Court and of and attending the sale, and then in payment and satisfaction so far as the same will extend of what is found due to the mortgagee, for principal, interest and costs; and the surplus of the said moneys (if any) shall then be paid to the assignee. But in case the moneys arising from the sale are insufficient to pay and satisfy what is so found due to the mortgagee, then he shall be entitled to prove as a creditor for the deficiency, and receive dividends thereon ratably with the other creditors, but not so as to disturb any dividend then already declared.

21. For the better taking of such inquiries and accounts, and making a title to the purchaser, all parties may be examined by the Court upon interrogatories or otherwise as it may think fit, and shall produce before the Court upon oath all deeds, papers, books and writings in their respective custody or power relating to the estate or effects of the bankrupt, as the Court may direct.

Proof in respect of Distinct Contracts.

22. If a debtor was at the date of the receiving order liable in respect of distinct contracts as a member of two or more distinct firms, or as a sole contractor and also as member of a firm, the circumstance that the firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of the contracts against the properties respectively liable on the contracts.

Periodical Payments.

23. When any rent or other payment falls due at stated periods, and the receiving order is made at any time other than one of those periods, the person entitled to the rent or payment may prove for a proportionate part thereof up to the date of

The Indian Bankruptcy Bill, 1886.
(*The Third Schedule. — Enactments repealed.*)

the order as if the rent or payment grew due from day to day.

Interest.

24. On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the receiving order and provable in bankruptcy, the creditor may prove for interest at a rate not exceeding six per centum per annum to the date of the order from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and, if payable otherwise, then from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment.

Debt payable at a future time.

25. A creditor may prove for a debt not payable when the debtor committed an act of bankruptcy as if it were payable presently, and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of five per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable according to the terms on which it was contracted.

Admission or Rejection of Proofs.

26. The assignee shall examine every proof and the grounds of the debt, and in writing admit or reject it in whole or in part, or require further evidence in support of it. If he rejects a proof, he shall state in writing to the creditor the grounds of the rejection.

27. If the assignee thinks that a proof has been improperly admitted, the Court may, on the application of the assignee, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

28. If a creditor is dissatisfied with the decision of the assignee in respect of a proof, the Court

may, on the application of the creditor, reverse or vary the decision.

29. The Court may also expunge or reduce a proof upon the application of a creditor if the assignee declines to interfere in the matter, or, in the case of a composition or scheme, upon the application of the debtor.

30. For the purpose of any of his duties in relation to proofs, the assignee may administer oaths and take affidavits.

THE THIRD SCHEDULE.

(*See section 136.*)

ENACTMENTS REPEALED.

A.—Statute repealed.

Year and chapter	Title.	Extent of repeal
11 & 12 Vic., c. 21.	An Act to consolidate and amend the Laws relating to Insolvent Debtors in India.	So much as has not been repealed.

B.—Acts repealed.

Number and year.	Subject or title.	Extent of repeal.
XXVII of 1841.	An Act for appropriating the unclaimed Dividends on Insolvent Estates.	So much as has not been repealed.
XVII of 1875.	The Burma Courts Act, 1875.	Section 86.

STATEMENT OF OBJECTS AND REASONS.

This matter of the general amendment of the law of bankruptcy and insolvency in India has been frequently of late years pressed upon the attention of the Government of India.

There are at present two main bodies of insolvency law in force in British India—first, the Statute 11 & 12 Vic., cap. 21; and secondly, Chapter XX of the Code of Civil Procedure (XIV of 1882). Roughly speaking, the former constitutes the insolvency law for the three Presidency-towns and for the towns of Rangoon, Moulmein, Akyab and Bassein; the latter the law for the country outside those towns. It is, however, to be observed that the High Courts administer the insolvency chapter of the Civil Procedure Code concurrently with their ordinary insolvency jurisdiction. Besides these two main bodies of law, there is a special insolvency law for the Punjab under Act IV of 1872, sections 22 to 33; and there are special Acts that have been passed for the relief of indebted landowners in different parts of the country.

2. In the year 1870 Sir James Stephen introduced a Bill repealing the Statute of 1848, and substituting for it an insolvency law applicable to the whole of British India. It was taken mainly from the English Bankruptcy Act of 1869. The general opinion about it was that its provisions were too complicated for the Mufasssil, and that the system of voluntary management by creditors, which was then the principle of the English Act, was unsuitable to India, and the measure was accordingly dropped. The Bill was possibly open to the objection that it was beyond the competency of the Indian legislature, but this point does not appear to have been taken at the time.

3. Sir Arthur Hobhouse did not attempt to touch the insolvency law of the Presidency-towns, but he paid a good deal of attention to what he described as "those seldom-used sections" of the Code of Civil Procedure "which do duty for an insolvency law" in the Mufassal.

* Legislative Proceedings, 1876, page 241.

† Legislative Proceedings, 1875, page 76.

sal.* Speaking on the subject in 1875,† he remarked that the Code then contained the germ of an insolvency law, but nothing more than a germ. He believed that this part of the Code had been very little used, and he remarked that if this was so it was not surprising, as there was very small inducement to the debtor to avail himself of it. It seemed, however, he went on to say, to be the prevailing opinion that the judicial machinery in the Mufassal was hardly adapted to the working of any general and complete law of insolvency. At all events, he said, such a law should be treated as a separate measure, and not as part of the Code. It would probably, he added, be better for the present, and be likely to pave the way for some more complete measure in the future, if the legislature were to make the law a little less indimentary than it then was, and at all events to supplement it where it seemed to be broken off in its natural course; and he embodied in Chapter XX of the Code of 1877 certain provisions framed in accordance with these views.

4. By Act XII of 1879 (now superseded by the Code of Civil Procedure of 1882) several amendments were made in the insolvency chapter of the Code. The most important of these was the extension of the chapter to persons against whose property orders of attachment had been issued in execution of money-decrees. In his speech on the passing of this Act, Mr. Whitley Stokes said that Chapter XX, even with all the improvements made by this Act, would still be incomplete; but that it went as far as most of the Committee with their present knowledge of the condition of the Mufassal Courts and the extent of India's indebtedness thought safe and wise. The Government of India in the Home Department, he said, either had issued, or was about to issue, a circular to the Local Governments, requesting their opinion as to the propriety of allowing debtors to a certain amount to apply for a declaration of insolvency, and if this were found possible the law would be altered accordingly.‡

‡ Abstract of Proceedings, 1879, page 202.

5. The circular referred to by Mr. Stokes was issued on the 22nd of September, 1879, and invited an expression of opinion on the suggestion that persons owing Rs. 200 and upwards should be allowed to apply to be adjudged insolvents, though they might not have been arrested or imprisoned, and though no order of attachment against their property had been made. The majority of the opinions received was adverse to the suggestion, and accordingly it was dropped.

6. In January, 1881, Mr. Pitt Kennedy brought in a Bill for the amendment of the law relating to insolvent debtors in India. It was a short amending Bill of seven sections, and did not attempt to consolidate the law. Serious doubts were entertained whether some of the proposals of the Bill were not *ultra vires*, and it was therefore decided that the Bill should not be proceeded with. In the meantime, however, it had been circulated to Local Governments and Administrations for opinion; and among the comments and criticisms which were passed upon it the doubt is not unfrequently expressed whether it was worth while to pass a mere amending Bill, and whether it would not be possible to re-cast completely the insolvency law for India.

7. It is clear further that, apart from any question of general revision, there are certain points in which the existing law stands in somewhat urgent need of emendation.

Thus, the Secretary of State, in a despatch dated the 21st October, 1880, requested the early consideration by the Government of India, in communication with the several High Courts, of the question whether the Insolvency Courts could not under the existing law order the charge for advertising notices of insolvency in the provincial Gazettes and in the *London Gazette* to be defrayed from the estates concerned, and suggested that, if necessary, recourse should be had to legislation to ensure the recovery from every estate of all costs, whether incurred in England or in India, attendant on the insolvency. The Local Governments and High Courts were consulted on this question; and though the majority of them were of opinion that the point might be dealt with by an alteration of the statutory rules, yet the possibility of meeting the difficulty satisfactorily in this way does not appear to be altogether free from doubt.

8. Again, at Bombay, in consequence of the discovery some five or six years ago of serious defalcations on the part of the Official Assignee, it became necessary to re-organize the office of that functionary, and the High Court deemed it necessary—

(1) to provide that the accounts of the Official Assignee should be regularly audited by a competent auditor; and

(2) to appoint an Official Assignee of such position and character as might afford an effectual guarantee against misappropriation, and of such energy and legal knowledge as might ensure the most satisfactory and least expensive realization and distribution amongst creditors.

For these purposes additional funds were required, and the Court proposed to provide these funds mainly from unclaimed dividends. Accordingly, they framed certain new rules under the Insolvency Act of 1848, by which the unclaimed dividends were to be formed into a fund to be invested, with other money, in Government paper. The interest was to be

applied in paying an auditor, and in supplementing the remuneration of the Official Assignees. These rules have hitherto been acted on, but doubts have been suggested as to their validity, and the Bombay Government have been pressing the Government of India to introduce or sanction legislation for the purpose of validating them. It appears, however, to be doubtful whether they can be validated by anything short of Parliamentary legislation.

9. The insolvency law of the Presidency-towns is admittedly cumbrous, defective and out of date, and in some points of detail is, as has been shown, urgently in need of amendment. The proposals for its revision which have hitherto been submitted to the legislature have been objected to, not so much on the ground that they were undesirable, as on the ground that they were insufficient, and that, while it was desirable to re-cast the whole law and bring it into conformity with English law, it was expedient to postpone legislation for this purpose while proposals involving important amendments of the English law itself were under consideration. This objection has recently been removed by the passing of the English Bankruptcy Act of 1883. That Act may not be perfect; but at least it embodies the accumulated experience of the thirty-five years which elapsed since the passing of the Indian Insolvency Act; and in commercial law perfection of detail is less important than uniformity of principle. It is eminently desirable that the circumstances under which a debtor may be declared insolvent and under which he may obtain his discharge should be, as far as possible, the same in London and Calcutta.

10. The Government of India, therefore, after reference to the Secretary of State, came to the conclusion that the opportunity should be taken of repealing the Indian Insolvency Act and substituting a new Act conforming in general principles to the English Act of 1883, but adapted in details to Indian circumstances.

A Bill on these lines was prepared last year, and, having regard to the circumstance that an Indian Bankruptcy Act will have in some cases to be used by persons beyond the limits of British India, and to the advantage of having the decisions of the English Courts as a guide to its construction, it was thought well that its form and drafting should follow the English Act as closely as possible, except where there was some substantial reason for taking a different course. The result of the adoption of the English Act as a model then is that in some instances the phraseology of the present Bill, which is based on the draft of 1885, will be found to vary slightly from that ordinarily adopted in Acts of the Indian legislature, and in others it may be found to contain rules of interpretation and evidence, penal clauses and other provisions, which either cover ground already covered by parallel Indian enactments, or would be somewhat differently framed in a Bill intended only for this country.

11. The Bill which was prepared last year was submitted for opinion to the authorities most competent to advise on the subject of bankruptcy, and the further deviations from the scheme of the English Act which will be found in the present Bill are the outcome of the advice given by those authorities.

12. The first question which presents itself in connection with this measure is whether the new law should be applied to the whole of British India or only to specified towns.

There is something to be said in favour of having one, and only one, insolvency law for the whole of India. But, on the other hand, the difference between the circumstances of indebtedness in commercial seaports and in the interior appears to be such as to require, not indeed a different law, but different machinery. If Chapter XX of the Code of Civil Procedure were not in existence, it might be desirable to insert in a general Insolvency Act a chapter applying the law for the Presidency-towns, with modifications and simplifications, to the Munsiff Courts. But under existing circumstances it is thought that the best course is to keep Chapter XX standing, to amend it where necessary, and to apply it generally to parts of the country and to forms of indebtedness to which a law framed principally with a view to commercial insolvencies is not applicable, the new law being applied in the first instance only to the three Presidency-towns, and to Rangoon, Moulmein, Akyab and Bassein, and a power being taken to extend it to other commercial centres, such as Karachi.

13. The Bill accordingly (section 74) constitutes by its direct operation only four Courts of Bankruptcy, namely, the High Courts of Judicature at Calcutta, Madras and Bombay and the Court of the Recorder of Rangoon, and confers upon the Local Governments power, with the previous sanction of the Governor General in Council, to constitute other Courts of Bankruptcy in the territories administered by them. The local limits of the jurisdiction of the Presidency High Courts when exercising bankruptcy jurisdiction are (section 86) defined to be the same as the local limits of their ordinary original civil jurisdiction, the local limits of the jurisdiction of the Recorder of Rangoon to comprise (as at present) the towns of Rangoon, Moulmein, Akyab and Bassein. The local limits of the Courts which may be constituted by Local Governments will be defined by those Governments with the previous sanction of the Governor General in Council.

14. The next question that presents itself is one as to the powers of the Governor General's Council. The present Indian insolvency law is contained in an Act of Parliament so framed as to operate throughout Her Majesty's dominions. Thus a vesting order made under it

vests in the assignee by its direct operation all the real and personal estate and effects of the insolvent in whatever part of those dominions they may be situated or accrue. An order of discharge made under it has direct effect in every part of those dominions. And the subordinate provisions of the Act are, speaking generally, framed on similar lines. The Act is one of those which it is within the competency of the Legislative Council of the Governor General to modify or repeal; but if we were to undertake without the aid of Parliament to repeal and re-cast it in the manner above indicated, we should, owing to the limitation of our legislative powers, produce an enactment which would fall short of the present law in the important matter of its local extent and operation. Nor could we attain our object by any amendment of the existing Act. To say nothing of the impracticability, from the draftsman's point of view, of effecting, by way of amendment, the multitude of alterations which are needed in details and in matters of form, it must be remembered that it would be beyond the powers of the Council to extend in any way or substantially modify any of those provisions which apply beyond the limits of British India. And it is apprehended that, even if we were content to forego all notion of directly interfering with these provisions, any extensive amendment of the Act would probably affect them in such a way that either they would be held to have lost their operation beyond British India, or our enactment would be held to be *ultra vires* so far as it affected them, or else some other confusion or difficulty would arise.

15. It is an apprehension of some such result as this that has deterred the Government from attempting certain amendments of the Insolvency Act which have been from time to time suggested, and which in themselves would appear to be of a most trifling description. It is true that if the Council were to repeal the existing Act and substitute for it an Act of its own, drawn on improved lines, the new law, though treated as a foreign bankruptcy law, would receive a certain amount of recognition, and would be given effect to in many cases in the United Kingdom and in British Colonies; but it is apprehended that this result would, as a rule, be attainable only indirectly and through the medium of further judicial proceedings, that in some cases those proceedings would give rise to perplexing questions of private international law, and that in other cases again the Indian law would obtain but partial recognition. It is believed, for example, that a vesting order passed by our Courts under such a law would be allowed no effect as regards immovable property situate in another British jurisdiction, and that the cases in which effect would be given to an order of discharge so passed are not as yet completely defined. Such difficulties could, no doubt, be met by supplementary bankruptcy proceedings concurrently instituted in the United Kingdom or the Colony, but it is obvious that the necessity for this should, if possible, be avoided. The Government of India has no information as to the proportion of the cases that now come before our Insolvency Courts in this country in which a limitation of the local operation of the law, like that just referred to, would be felt as a serious impediment; but it is apprehended that it would be so felt in the more important cases of bankrupts engaged in business transactions extending to the United Kingdom or the Colonies.

16. For these reasons it is necessary that any legislation undertaken here should be supported by an Act of Parliament. The precise form which the Act of Parliament should take is still under consideration in communication with the Secretary of State, but the Government of India as at present advised is disposed to think that the Act should be a confirming Act following legislation here rather than an enabling Act preceding it. An enabling Act followed by an Indian Act would give rise to questions as to whether the Indian legislature had exceeded the powers given to it by the English Act.

17. As regards the provisions of the Bill itself, it will be observed that the most striking difference between them and those of the English Act is that the duties discharged in England by the Board of Trade and committees of inspection are by the Bill entrusted to the Bankruptcy Court. This was unavoidable, as there is no authority in this country outside the Courts which could undertake the duties of the Board of Trade with any prospect of success, and the opinion is almost unanimous that the superintendence of bankruptcy proceedings by committees of inspection is unsuited to India.

18. Opinion is also adverse to the application to India of some of the provisions of the English Act respecting meetings of creditors. It is proposed therefore that meetings shall be held only when they are deemed by the assignee or the Court or one-fourth in value of the creditors to be necessary.

19. The other points in the Bill which appear to require explanation will be referred to, as far as possible, in the order of the sections in which they occur.

20. The local extent of the Act (section 1) has been made as wide as the powers of the Indian legislature permit, and its operation can only be further extended by Parliament.

21. Several of the authorities who have recorded opinions on the draft of 1885, and among them a Committee of the Judges of the High Court at Fort William, have taken exception to the seizure and sale of the goods of a debtor under process of a Civil Court, and the failure of a debtor to comply with the requirements of a bankruptcy notice, being made acts of bankruptcy in India as they have been in England by section 4, sub-section (1), clauses (c) and (g), of the English Act. Those clauses therefore have been excluded from the Bill (section 2), but in their stead have been added clauses making it an act of bankruptcy for a debtor to offer a

composition to his creditors (L. R. 13 Q. B. D. 471), or to be lying in prison for a longer period than twenty-one days for making default in payment of money (11 & 12 Vic., c. 21, ss. 8 and 9).

22. By section 4 the jurisdiction of the Court is limited to cases in which the debtor is in prison within the local limits of the jurisdiction under an order of a Civil Court for default in payment of money, or in which the debtor, or, if he is a member of a firm, his partner, has within a year before the presentation of the bankruptcy petition or hitherto resided or had a dwelling-house or place of business within those limits. This differs from the corresponding provisions of the English Act, which place no restriction of this kind on a petition by a debtor, and which admit a petition against a debtor when, and only when, he "is domiciled in England, or, within a year before the date of the presentation of the petition, has ordinarily resided or had a dwelling-house or place of business in England."

It differs also from the corresponding provisions of the Indian Insolvency Act, which proceed on the distinction, now to be abolished, between traders and others, and the effect of which in all particulars it would be hazardous to attempt to state.

23. As regards the difference between the English Act and the Bill in this respect, it seems clear that the fact of the debtor being in prison within the jurisdiction should, in this country, continue to be, as it is under the present Insolvency Act, a ground of jurisdiction; and it seems almost equally clear, having regard to the conditions under which the present legislation is undertaken and to the circumstance that the local limits of the jurisdiction of each Court, however they may be fixed, must embrace only a part of British India, that domicile should be rejected here as a ground of jurisdiction.

24. Comparing the Bill with the existing Indian insolvency law as construed by the High Courts, it will be observed that Bankruptcy Courts will, under the Bill, continue to have jurisdiction in cases where the bankrupt has a house of business within the local limits, as *Pontifex, J.*, held them, in the cases of *Tarney Churn Goho* (L. B. L. R., App. 26) and *Howard Brothers* (L. B. L. R. 254), to have under the existing law, but that a High Court will not have bankruptcy jurisdiction in respect of an out-country debtor merely by reason of his being personally subject to the jurisdiction of that Court. It will be remembered that opposite views have been taken as to the existence of a jurisdiction on this latter ground under the existing law—see *re Tietkins*, L. B. L. R., O. C., 84, on the one hand, and *re Blackwell*, 9 Bo. H. C. Rep. 461, and *re Ricks*, 3 Mad. H. C. Rep. 151, on the other.

25. It has, however, been provided (section 4), on the recommendation of the Committee of the Judges of the High Court at Fort William, that a Court exercising jurisdiction in bankruptcy under the proposed Act may transfer to itself any proceedings under Chapter XX of the Code of Civil Procedure and deal with them under the Act. It has also been provided (section 4) that in any prescribed class of cases the Court may make a receiving order on a bankruptcy petition notwithstanding the restrictions generally confining its jurisdiction to cases arising within certain local limits. Section 9 provides that, where concurrent proceedings have been instituted under the Bankruptcy Act and under the Code, the Court may stay the proceedings under the Code wherever they may be pending.

26. On the recommendation of the Chief Judge of the Bombay Court of Small Causes it is proposed (section 7) that a Bankruptcy Court may refuse to make a receiving order on a debtor's petition if in its opinion the petition ought to have been presented before some other Bankruptcy Court.

27. A receiving order made under section 6 or section 7 of the Bill will not have precisely the same effect as a vesting order under section 7 of the present Insolvency Act. It will transfer the possession of, but not the property in, the debtor's estate. The debtor will not be divested of his estate until he has been adjudged bankrupt (section 20).

28. When the receiving order has been made, the debtor, if in prison, will be released (section 8), but he will be under the control of the official assignee (section 22), to whom the earnings of proceedings may be given if the petitioner does not proceed with due diligence (section 21).

29. Sections 13 and 100 of the Bill give a Bankruptcy Court power to rescind a receiving order or annul an adjudication of bankruptcy when it considers that the debtor's estate would be more conveniently administered in some other part of British India or of Her Majesty's dominions elsewhere. When an adjudication is annulled under the latter section, anything done under it remains valid, and the Court is empowered to direct that the debtor's property shall vest in any person it may appoint. It is conceived that if similarly wide powers are conferred on the English Bankruptcy Courts the provisions regarding concurrent bankruptcies contained in sections 77 *et seq.* of the present Indian Insolvency Act may be dispensed with.

30. Section 58 protects existing interests of official assignees, and while it is proposed (section 62), in accordance with ordinary Indian practice, to leave the remuneration of official assignees to be determined by executive order, it is improbable that the existing mode of remuneration will be altered during the incumbency of present office-holders.

31. It was urged, among other objections to Sir J. Stephen's Bill, that it would generally be difficult to find among the creditors in this country persons qualified and willing to take a large share in the administration of a bankrupt's estate, and as a matter of fact the official element has always been prominent in administrations under the existing law. It is accordingly proposed, on the practically unanimous advice of all authorities conversant with the practice of bankruptcy in this country, that the official assignee shall discharge the functions of trustee in bankruptcy except when the creditors express a wish for the appointment of a special assignee (section 77).

32. By section 24 of the Bill the provisions of section 23 of the English Bankruptcy Act, respecting the re-direction of debtors' letters, have, on the advice of the Bombay Chamber of Commerce, been extended to debtors' telegrams.

33. The saving of section 5 of the Statute commonly known as Bayill's Act (28 & 29 Vic., c. 86) in section 10 (6) of the English Bankruptcy Act has been omitted from section 33 of the Bill, as there is no corresponding enactment in the law of British India.

34. It has been suggested by the Bengal Chamber of Commerce and the Calcutta Trades Association that the clause (section 37) respecting reputed ownership should be so drawn as to meet the contention of the Official Assignee in the case of *Gubbay v. Miller* (I. L. R. 6 Cal. 633). This suggestion raises a very difficult question, which has been left unsolved by the English Bankruptcy Act of 1883. The opinions of the authorities in India who specially considered the question in 1881, with reference to Mr. Pitt-Kennedy's Bill, may be summed up in the following remarks of Mr. Justice Pontifex on section 23 of 11 & 12 Vic., c. 21:—

"The fact is that the clause, though extremely valuable in particular cases, is one very dangerous to meddle with. As it stands it is beneficial. To alter it as proposed would, in my opinion, be most mischievous. It is impossible with justice to make it apply to every case, and it would be hazardous to attempt to define with particularity to what cases it should apply. In my opinion it should be left as it now stands."

If further legislation is required, it must, in the opinion of the Government of India, take the form of a Bills of Sale Act.

35. Sections 45 and 46 of the English Bankruptcy Act, being framed with reference to English forms of execution, could not be adopted in the Bill without modification. It has been thought (sections 38 and 39 of the Bill) that the course most in harmony at the same time with those sections of the English Act and with the analogies presented by the Code of Civil Procedure would be to make the point of time at which the attaching creditor's title becomes complete against the assignee the same as that at which under section 295 of the Code it becomes complete against rival decree-holders. It is hoped that this will afford a simple and equitable settlement of a point regarding which there has been some difficulty in connection with the existing insolvency law.

36. On the suggestion of Mahārāja Sir Jotendro Mohun Tagore and Bābū Doorga Churn Law the provisions of section 45 of the Bill, with respect to the appropriation of pay or pension, have been made subject to the provisions of the Code of Civil Procedure and the Pensions Act, 1871.

37. The difference between section 48 (1) (c) of the Bill, defining the trustee's powers in respect of property to which the bankrupt is entitled "as tenant in tail or other owner of an estate of inheritance less than an estate in fee-simple," and the corresponding provision of the English Bankruptcy Act is explained by the peculiar position in which the owners of such estates are placed by section 2 of Act XXXI of 1851. The simplicity of that position makes it possible to dispense with all the provisions of the Act for the abolition of fines and recoveries, which are incorporated by reference in the English Bankruptcy Act, with the exception of one, the substance of which, so far as it appears to be required, is embodied in sub-section (2) of section 48 of the Bill.

38. A Bankruptcy Court will have two entirely different kinds of money under its control, namely, (a) money held by it on account of estates before declaration of dividend, and (b) declared dividends awaiting distribution, the former being the property of estates and the latter the property of specific creditors. Section 61 recognises this distinction, and requires the Court to keep a Bankruptcy Estates Account and a Bankruptcy Dividends Account, the former being an account of money held for estates and the latter of money removed from that account on declaration of dividends and held for creditors till their dividends are paid to them or, through their default, lapse to the Government (section 131).

Both the Accounts are to be kept by the Court with a Government treasury. It is considered desirable that, like moneys received by ordinary Civil Courts, money received on account of bankruptcy estates should be paid into a Government treasury, in order that there may be the security of the Government for safe custody, and that the safeguards against the occurrence of error provided by the rules of the Government regarding payments from Government treasuries may be brought into operation. The expression "Government treasury" is so defined in section 135 as to include a Presidency Bank conducting treasury business for the Government.

39. Under the English Act of 1883, dividends on investments of money belonging to estates in bankruptcy are credited to the Government, and the Lord Chancellor is required to have regard to the amount thus derived in fixing the fees payable in respect of bankruptcy proceedings. It has been urged, and the Government of India is of opinion, that in this country, where bankruptcy proceedings are often necessarily more protracted than in England, interest on investments should be paid to creditors. But in that case each investment must be made and held separately for each estate, any portion of the funds of which is invested, and investments should only be made when the sum available for investment is large enough to make the interest sensible in amount. Section 66 provides for investments being made on these conditions at the instance of the Court out of funds standing to the credit of estates in the Bankruptcy Estates Account. It is only under that Account that delay prejudicial to creditors can arise. After money has been transferred to the Bankruptcy Dividends Account, any person to whom a dividend is due has only to present his receipt to obtain it, and he should have no inducement, whether by the money lying at interest or in any other way, to postpone for a day his taking the money out of the custody of the Court.

40. Section 79, sub-section (1), clause (c), of the Bill has been so drawn that jurisdiction in bankruptcy may be conferred in a limited class of cases on Courts beyond the Presidency-towns, as, for instance, on the High Court of Judicature for the North-Western Provinces or the Chief Court of the Punjab, with respect to proceedings under Chapter XX of the Code of Civil Procedure, where, by reason of the sum involved or the difficulty of winding up the estate under the Code, the Court may see fit to withdraw the proceedings from the Court in which they are pending and deal with them under proviso (2) to section 4, sub-section (1).

41. Section 85 is based on the section of the English Act which permits the delegation of subordinate jurisdiction in certain matters to Registrars in bankruptcy. It seems that this jurisdiction may be most conveniently exercised by a Judge of the Small Cause Court in Madras and by officers of the High Court in Calcutta and Bombay.

42. Under section 88 of the Bill the appeal from a single Judge of a Presidency High Court and the Recorder of Rangoon exercising bankruptcy jurisdiction lies as at present. The appeal from any Mufassal Courts of Bankruptcy which may be established will in most cases lie to the High Court of the province.

43. Section 101 follows the English Act in fixing the limit for small bankruptcies at Rs. 3,000. But the opinion has been expressed by some of the authorities who have advised on the draft of last year that the limit should be raised to Rs. 5,000 or even to Rs. 10,000. The Government of India itself inclines to that opinion, but deems it advisable to adhere to the limit prescribed in the English Act until the matter can be further considered in the light of the criticisms on the present Bill.

44. Part VIII of the Bill is taken from the English Debtors' Act, 1869, as amended by the Bankruptcy Act, 1883. It embodies those full and strong powers for the arrest and punishment of fraudulent debtors and creditors which are the essential adjuncts of every proper law of bankruptcy. It is proposed, when a suitable occasion presents itself, to amend the Code of Criminal Procedure so as to give a Bankruptcy Court a power to commit offenders for trial similar to that which is conferred on the English Bankruptcy Courts by section 165 of the Act of 1883.

45. With respect to the suggestion that certain additional offences should be created by Part VIII of the Bill, it will be found that the Bill or the Indian Penal Code covers most, if not all, of the acts and omissions for which it has been proposed that further provision should be made.

46. Section 110 of the Bill provides that a married woman shall, in respect of her separate property (if any), be subject to the Act in the same way as if she were unmarried. The restriction in the corresponding provision, section 1 (5), of the English Married Women's Property Act, 1882, which confines it to the case of a woman carrying on a trade separately from her husband, has been omitted, because the vast majority of women to whom the Bill will be applicable stand either under sections 4 and 44 of the Indian Succession Act or under their personal laws on a footing altogether different from that of married women in England.

The phrase "separate property," it may be observed, is used in the wide sense in which it is used in the Indian Married Women's Property Act, 1874.

47. Section 130 provides, among other matters, for the payment into the Bankruptcy Courts of unclaimed dividends and other undistributed money remaining in the hands or under the control of assignees under the 11 & 12 Vic., c. 21, after the passing of the proposed Act.

The unclaimed dividends are of two classes, namely, dividends belonging to creditors who have proved their debts, and dividends reserved for creditors who have not done so.

With respect to dividends of the first class, they are, as the late Chief Justice of Bengal has said, the property of the creditors for whom they have been set apart, or of their representatives, just as much as money appropriated to a person interested in an administration-suit belongs to him or his representative.

The case of dividends of the second class is different, and it is proposed to provide for them by section 133 of the Bill. With respect to this class of dividends, Mr. Turner, the Official Assignee at Bombay, has observed as follows:—

"The other class of unclaimed dividends, which amounts probably to some two or more lakhs of rupees, has arisen in Bombay partly from there being no provision in the Act 11 & 12 Vic., c. 21, section 11 (similar to that in the present proposed Act, section 51), for the declaration of dividends only among creditors who "have proved their debts."*

* No unclaimed dividends of this class can arise under the proposed new Act (see section 53).
A practice therefore grew up in the office of the Official Assignee of declaring dividends calculated on the total amount entered in respect of claims, whether partially secured or not, and only adjusting the claims when creditors came to receive payment of the dividend declared. And it must be noticed that this practice had one great practical advantage, inasmuch as such partially secured creditors generally held goods on the way to Europe, and it could not be ascertained, till such goods were actually put on the European market, what the loss (if any) would be. And as creditors in their own interest as well as that of the estate would frequently hold such goods for a considerable time, it would have caused great delay in declaring dividends to wait until such creditors were in a position to adjust and prove their claims. But in many cases the result was that such creditors, when the account sales were received, did not find it worth their while to prove their claims at all, and in such cases the dividend calculated on the whole original debt, as entered in the schedule, still remains unclaimed.

"Formerly, in the older estates, proceedings were taken under the old Act, XXVII of 1841, to strike such claims off the schedules, but of late years it has been considered that that process could not now be legally carried out."

48. Section 131 is designed to meet the suggestion of the Acting Prothonotary and the Official Assignee of Bombay that the Act itself, and not the rules under it, should disallow claims to any lien on debtors' books, and the suggestion of the Bombay Chamber of Commerce that the Act should provide for the free access of creditors to those books.

49. Section 136 (3) of the Bill provides that notwithstanding the repeal of the existing law all proceedings pending under it at the time when the new Act comes into operation shall be disposed of as if that Act had not been passed. This is the course taken in respect of pending proceedings by the English Act, and having regard to the extent of the change to be made in the law, it seems the only practicable course.

50. Rules 18 to 21 of the Second Schedule, regarding the taking of mortgagees' accounts and the sale of mortgaged property, have been inserted on the suggestion of Mr. Macgregor, the Official Assignee at Calcutta. These rules, which are frequently followed in this country, are substantially the same as those issued by Lord Broughborough in 1791, and the fact that they have been retained, with slight alterations, under the many Bankruptcy Acts passed in England since that date, is strong evidence of their utility.

51. It has been suggested that certain privileges should be accorded to the Official Assignee as a party to legal proceedings. But he will be a public officer within the meaning of section 2 of the Code of Civil Procedure, and, as such, entitled to the protection given to public officers by Chapter XXVII of that Code.

52. It has been objected that in certain circumstances the time limited by the draft of 1885 for doing some acts and things under the proposed Act would be found to be inconveniently short. In some cases the time has now been extended, and it is believed that section 89, sub-section (1), will enable the Courts to prevent hardship in the exceptional cases to which the time as now limited may prove inapplicable.

The 11th May, 1886.

C. P. ILBERT.

COLLECTION OF PAPERS REGARDING THE BANKRUPTCY BILL REFERRED TO IN THE STATEMENT OF OBJECTS AND REASONS.

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Extract, paragraphs 1 to 10, of Despatch from the Government of India to Her Majesty's Secretary of State for India, —(dated the 12th June, 1885).

With reference to Your Lordship's despatch No. 21 (Judicial), dated 14th of August last, we have the honour to submit herewith copies of a Bill (with the Objects and Reasons for the same) which has been prepared in my Legislative Department to adapt the English Bankruptcy Act, 1883, to Indian circumstances.

2. In exercise of the discretion left to us by paragraph 1 of Your Lordship's despatch, we have thought it well to make the measure applicable by its own vigour not only to the town of Rangoon but also to those of Bassein, Moulinee and Myittha in which, as well as in Rangoon, the Presidency-town Insolvency Law has been for some years in force.

3. As regards the details of the measure, the material particulars in which it differs from the English Act are so fully explained in the Statement of Objects and Reasons that we deem it unnecessary to trouble Your Lordship with any further observations upon them.

4. As regards the form of the Parliamentary legislation required to give our Act operation in certain respects beyond the limits of British India, the proposal made in paragraph 27 of our despatch of the 5th May, 1885, was that we should pass an Act and that then an Act of Parliament should be passed extending such of its provisions as ought to apply beyond the limits of British India. On a further consideration of the point, however, we have come to the conclusion that the more convenient course—in fact, the only convenient course—would be that an Act of Parliament should be passed conferring upon the Governor-General's Council the extended power required for the object in view, and that our legislation should then proceed here in exercise of these powers. We are, let it be thus concluded, guided by the consideration that, if the course we originally proposed were adopted, we should, on a very early occasion, be necessitated for amending our Act in respect of difficulties of a nature similar to those which present themselves in connection with the amendment of the present Indian Insolvency Act, and which are fully described in paragraph 2 of the despatch

* H & A V, c. 21.

last referred to.

5. Assuming that Your Lordship will agree with us on this point, we have, as requested by Your Lordship, had prepared and forwarded herewith a memorandum of the Objects and Reasons of the latter two drafts of enabling Acts of Parliament, either of which, we believe, would put the Governor-General's Council in a position to deal with the subject in an adequate manner.

Of these we give the preference to that marked No. 1, which, following more closely the precedent presented

† 37 & 38 V, c. 104.

‡ 47 & 48 V, c. 48.

by section 288 of the Merchant Shipping Act, 1854, and the Indian Marine Act, 1880, confers the requisite powers in wider terms, and has much the merit of being the shorter of the two, but if the generality of its provisions should be deemed an objection, we could be prepared to accept an Act framed on the lines of the draft No. 2. This latter attempts to specify, with some particularity the several matters in respect of which extended powers are conferred on the Indian Legislature, and though we have every hope that it would accomplish its purpose, we must hardly observe that a draft in this form cannot be so confidently relied on as one conceived in more general terms.

6. On comparing either of these drafts with the draft Bill which we propose to introduce here, Your Lordship will perceive that while the Indian Bankruptcy Courts would be empowered through the medium of their adjudications, decrees, judgments, &c., to affect matters beyond the limits of British India, their direct action will, as explained in the Statement of Objects and Reasons, be strictly confined to this country.

To supply what might thus appear to be a defect in the system we rely on section 118 of the English Bankruptcy Act, 1883, which we as now will enable the Indian Bankruptcy Courts to invoke the aid of the English Bankruptcy Courts, and that not only by specific requisitions directed to a particular stage of a particular matter, but also in a more general form, as, for example, by requiring them to entertain all applications of a certain class which may be made to them on behalf of an Indian official receiver or trustee.

7. The local extent clause of the Bill is introduced here in, as Your Lordship will observe, drawn on the assumption that the Parliamentary legislation will take the form indicated in the draft No. 1. It would be altered in the opposite event.

8. In paragraph 27 of our despatch already referred to we said that we thought that the Bill to be submitted to Parliament should contain provision relating to concurrent bankruptcies somewhat similar to those contained in sections 77 *et seq.* of the present Act (H & A V, c. 10), and we should have no great objection to such provision being inserted in Your Lordship should be advised that they are essential, but it seems to us on further consideration that it would be desirable to provide, if possible, with some serious complication, and we are inclined to think that the numerous cases have been brought to our notice in which bankruptcy proceedings are instituted simultaneously in a Court in England and in a Court in this country might be met by one Court surrendering the case to the other. The provisions of section 13 of our local Bill, giving power to annul a receiving order, and those of section 30, giving power to annul an adjudication, will, we conceive, confer upon the Courts in this country the power requisite for this, but perhaps some extension of the corresponding powers conferred by the Bankruptcy Act, 1883, on the English Courts would be necessary.

9. The only further observation we have to make regarding the draft Acts of Parliament forwarded to Your Lordship is that both are directed to what we consider necessary for our own purposes. If it is desired, for instance, that bankruptcy in this country should be a disqualification for offices in England, or if it is thought that the 13th and 30th sections of our local Bill to which we have just referred, are not sufficient, but that it is necessary to confer on Courts of Bankruptcy in England a power of staying proceedings in the Bankruptcy

10. We have circulated the draft Bill with a view to obtaining the opinion of the High Courts, commercial bodies and others, but we do not propose to take any step regarding it in the Legislative Council until we hear from Your Lordship in reply to this despatch. We desire to introduce the Bill at the opening of the next Calcutta session, and as we should before that time be in possession of the views of all those interested in, or qualified to form an opinion on, the measure, we might hope to pass it through all its stages at which discussion would be likely to arise before the return of the Government to Simla next year. If the requisite Parliamentary legislation should not be complete by that date, we should defer the final stage of our Bill.

A
BILL
TO

WHEREAS it is expedient to amend and consolidate the law relating to bankruptcy and insolvency: It is hereby enacted as follows:—

Sections 39 and 40;
Section 44, sub-section (2),
Section 48;
Section 49, sub-section (1), clause (c), and sub-section (2);
Section 62, sub-section (2).

Acts of Bankruptcy.

(g) if a creditor has obtained in British India a decree against him for any amount, and, execution thereof not having been stayed, he has served on him in British India, or by leave of the Court, elsewhere, a bankruptcy notice under this Act, requiring him to pay the judgment-debt in accordance with the terms of the decree, or to secure or compound for it to the satisfaction of the creditor in the Court, and he does not, within *fifteen* days after service of the notice in case the service is effected in British India, and in case the service is effected elsewhere then within the time limited in that behalf by the

Reverend Order

(5) Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the Court, on such security (if any) being given as the Court may require for payment to the petitioner of any debt which may be established against him in due course of law, and of the costs of establishing the debt may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be

*The Indian Bankruptcy Bill, 1885.**(Part I.—Proceedings from Act of Bankruptcy to Discharge.—Sections 7-17.)*

(6) Where proceedings are stayed, the Court may, if by reason of the delay caused by the stay of proceedings or for any other cause it thinks just, make a receiving order on the petition of some other creditor, and shall thereupon dismiss, on such terms as it thinks just, the petition in which proceedings have been stayed as aforesaid.

(7) A creditor's petition shall not, after presentment, be withdrawn without the leave of the Court.

[11 & 12 Vic., c. 21, s. 6.
46 & 47 Vic., c. 52, s. 8.]

7. (1) A debtor shall not be entitled to present a bankruptcy petition against himself unless he is in prison within the local limits of the jurisdiction of the Court under an order of a Civil Court for non-payment of money, or has within a year before the date of the presentation of the petition ordinarily resided or had a dwelling house or place of business within those limits.

(2) A debtor's petition shall allege that the debtor is unable to pay his debts, and the presentation thereof shall be deemed an act of bankruptcy without the previous filing by the debtor of any declaration of inability to pay his debts; and, if the debtor proves that he is entitled to present the petition, the Court shall thereupon make a receiving order.

(3) A debtor's petition shall not, after presentment, be withdrawn without the leave of the Court.

[11 & 12 Vic., c. 21, s. 6.
46 & 47 Vic., c. 52, s. 9.]

8. (1) On the making of a receiving order the official receiver shall be thereby constituted receiver of the property of the debtor, and thereafter, except as directed by this Act, no creditor to whom the debtor is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the debtor in respect of the debt, or shall commence any suit, action or other legal proceedings unless with the leave of the Court and on such terms as the Court may impose.

(2) But this section shall not affect the power of any secured creditor to realize or otherwise deal with his security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed.

[11 & 12 Vic., c. 21, s. 10.
46 & 47 Vic., c. 52, s. 11.]

9. (1) The Court may, if it is shown to be necessary for the protection of the estate, at any time after the presentation of a bankruptcy petition and before a receiving order is made, appoint the official receiver to be interim receiver of the property of the debtor, or of any part thereof, and direct him to take immediate possession thereof or of any part thereof.

(2) The Court may at any time after the presentation of a bankruptcy petition stay any suit, action, execution or other legal process pending in any Court in British India against the property or person of the debtor, and any Court in which proceedings are pending against a debtor may, on proof that a bankruptcy petition has been presented by or against the debtor, either stay the proceedings or allow them to continue on such terms as it may think just.

[46 & 47 Vic., c. 52, s. 12.]

10. When the Court makes an order staying any suit, action or proceeding or staying proceedings generally, the order may be served by sending a copy thereof, under the seal of the Court, by prepaid post letter to the Court before which the proceeding is pending.

[46 & 47 Vic., c. 52, s. 13.]

11. (1) The official receiver of a debtor's estate may, on the application of any creditor or creditor manager, and if satisfied that the nature of the debtor's estate or business or the interests of the creditors generally require the appointment of a special manager of the estate or business other than the official receiver, appoint a manager thereof accordingly to act until a trustee is appointed, and with such powers (including any of the powers of a receiver) as may be entrusted to him by the official receiver.

(2) The special manager shall give security and account in such manner as the Court may direct.

(3) The special manager shall receive such remuneration as the creditors may by resolution at an ordinary meeting determine, or, in default of any such resolution, as may be prescribed.

[46 & 47 Vic., c. 52, s. 14.]

12. Notice of every receiving order, stating the name, address and description of the debtor, the date of the order, the Court by which the order is made and the date of the petition, shall be published in the prescribed manner.

[46 & 47 Vic., c. 52, s. 15.]

13. If in any case where a receiving order has been made on a bankruptcy petition it appears to the Court by which the order was made upon an application by the official receiver, or any creditor or other person interested, that a majority of the creditors in number and value are resident in

the United Kingdom or in any other part of Her Majesty's dominions beyond the limits of British India, or that from the situation of the property of the debtor, or other cause, his estate and effects ought to be distributed among the creditors under the Bankrupt or Insolvent Laws of that part of Her Majesty's dominions, the said Court, after such enquiry as to it may seem fit, may rescind the receiving order and stay all proceedings on, or dismiss, the petition upon such terms, if any, as the Court may think fit.

Proceedings consequent on Order.

[46 & 47 Vic., c. 52, s. 16.]

14. (1) As soon as may be after the making of a receiving order against a debtor, a general meeting of his creditors (in this Act referred to as the first meeting of creditors) shall be held for the purpose of considering whether a proposal for a composition or scheme of arrangement shall be entertained, or whether it is expedient that the debtor shall be adjudged bankrupt, and generally as to the mode of dealing with the debtor's property.

(2) With respect to the summoning of and proceedings at the first and other meetings of creditors, the rules in the first schedule shall be observed.

[11 & 12 Vic., c. 21, s. 11.
46 & 47 Vic., c. 52, s. 16.]

15. (1) Where a receiving order is made against a debtor, the debtor's statement he shall make out and submit to the official receiver a statement of and in relation to his affairs in the prescribed form, verified by affidavit, and showing the particulars of the debtor's assets, debts and liabilities, the names, residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the official receiver may require.

(2) The statement shall be so submitted within the following times, namely:—

- (i) if the order is made on the petition of the debtor, within three days from the date of the order;
- (ii) if the order is made on the petition of a creditor, within seven days from the date of the order.

But the Court may, in either case, for special reasons, extend the time.

(3) If the debtor fails without reasonable excuse to comply with the requirements of this section, the Court may, on the application of the official receiver, or of any creditor, adjudge him bankrupt.

(4) Any person stating himself in writing to be a creditor of the bankrupt may, personally or by agent, inspect this statement at all reasonable times, and take any copy thereof or extract therefrom; but any person untruthfully so stating himself to be a creditor shall be punished, on the complaint of the trustee or official receiver, with imprisonment which may extend to three months, or with fine, or with both.

Public Examination of Debtor.

[46 & 47 Vic., c. 52, s. 17.]

16. (1) Where the Court makes a receiving order it shall hold a public sitting, on a day to be appointed by the Court for the examination of the debtor, and the debtor shall attend thereat, and shall be examined as to his conduct, dealings and property.

(2) The examination shall be held as soon as conveniently may be after the expiration of the time for the submission of the debtor's statement of affairs.

(3) The Court may adjourn the examination from time to time.

(4) Any creditor who has tendered a proof, or his representative authorised in writing, may question the debtor concerning his affairs and the causes of his failure.

(5) The official receiver, and a trustee if he is appointed before the conclusion of the examination, may take part therein.

(6) The Court may put such questions to the debtor as it may think expedient.

(7) The debtor shall be examined upon oath, and it shall be his duty to answer all such questions as the Court may put or allow to be put to him.

(8) Such notes of the examination as the Court thinks proper shall be taken down in writing, and shall be read over to and signed by the debtor, and may thereafter be used in evidence against him; they shall also be open to the inspection of any creditor at all reasonable times.

(9) When the Court is of opinion that the affairs of the debtor have been sufficiently investigated, it shall, by order, declare that his examination is concluded, but such order shall not be made until after the day appointed for the first meeting of creditors.

Composition or Scheme of Arrangement.

[46 & 47 Vic., c. 52, s. 18.]

17. (1) The creditors may at the first meeting or any adjournment thereof, by special resolution, resolve to entertain a proposal for a composition in satisfaction of the debts due to them from the debtor,

Power for creditors to accept and Court to approve composition or arrangement.

*The Indian Bankruptcy Bill, 1885.**(Part I.—Proceedings from Act of Bankruptcy to Discharge.—Sections 21-26.)*

(7) When a debtor is adjudged bankrupt after the first meeting of creditors has been held, and a trustee has not been appointed prior to the adjudication, the official receiver shall, if a declaration has been made by the Court under sub-section (2), forthwith summon a meeting of creditors for the purpose of appointing a trustee.

[46 & 47 Vic.
c. 52, s. 22.]

21. (1) In any case in which a declaration is made under Committee of inspection section 20, sub-section (2), and with the permission of the Court in any other case, the creditors qualified to vote may at their first or any subsequent meeting, by resolution, appoint from among the creditors qualified to vote, or the holders of general proxies or general powers-of-attorney from such creditors, a committee of inspection for the purpose of superintending the administration of the bankrupt's property by the trustee. The committee of inspection shall consist of not more than five nor less than three persons.

(2) The committee of inspection shall meet at such times as they from time to time appoint, and, failing such appointment, at least once a month; and the trustee or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(3) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present at the meeting.

(4) Any member of the committee may resign his office by notice in writing signed by him, and delivered to the trustee.

(5) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee, his office shall thereupon become vacant.

(6) Any member of the committee may be removed by an ordinary resolution at any meeting of creditors, of which seven days' notice has been given, stating the object of the meeting.

(7) On a vacancy occurring in the office of a member of the committee, the trustee shall forthwith summon a meeting of creditors for the purpose of filling the vacancy, and the meeting may, by resolution, appoint another creditor or other person eligible as above to fill the vacancy.

(8) The continuing members of the committee, provided there be not less than two such continuing members, may act notwithstanding any vacancy in their body; and where the number of members of the committee of inspection is for the time being less than five, the creditors may increase that number so that it do not exceed five.

(9) If there is no committee of inspection, any act or thing or any direction or permission by this Act authorized or required to be done or given by the committee may be done or given by the Court on the application of the trustee.

[46 & 47 Vic.,
c. 52, s. 23.]

22. (1) Where a debtor is adjudged bankrupt the creditors may, if they think fit, at any time after the adjudication, by special resolution, resolve to entertain a proposal for a composition in satisfaction of the debts due to them under the bankruptcy, or for a scheme of arrangement of the bankrupt's affairs; and thereupon the same proceedings shall be taken and the same consequences shall ensue as in the case of a composition or scheme accepted before adjudication.

(2) If the Court approves the composition or scheme, it may make an order annulling the bankruptcy and vesting the property of the bankrupt in him or in such other person as the Court may appoint, on such terms, and subject to such conditions, if any, as the Court may declare.

(3) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court that the composition or scheme cannot proceed without injustice or undue delay, or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by any person interested, adjudge the debtor bankrupt, and annul the composition or scheme, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this sub-section, all debts, provable in other respects, which have been contracted before the date of such adjudication shall be provable in the bankruptcy.

Control over Person and Property of Debtor.

23. (1) Every debtor against whom a receiving order is made shall, unless prevented by sickness or other sufficient cause, attend the first meeting of his creditors, and shall submit to such examination and give such information as the meeting may require.

(2) He shall give such inventory of his property, such

from them respectively, submit to such examination in respect of his property or his creditors, attend such other meetings of his creditors, wait at such times on the official receiver, special manager or trustee, execute such powers-of-attorney, conveyances, deeds and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors as may be reasonably required by the official receiver, special manager or trustee, or may be prescribed by general rules, or be directed by the Court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the official receiver, special manager, trustee or any creditor or person interested.

(3) He shall, if adjudged bankrupt, aid, to the utmost of his power, in the realization of his property and the distribution of the proceeds among his creditors.

(4) If a debtor wilfully fails to perform the duties imposed on him by this section, or to deliver up possession of any part of his property, which is divisible amongst his creditors under this Act, and which is for the time being in his possession or under his control, to the official receiver or to the trustee, or to any person authorised by the Court to take possession of it, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of Court, and may be punished accordingly.

24. (1) The Court may, by warrant addressed to any [46 & 47 Vic. c. 52, s. 25.] Arrest of debtor under police-officer or prescribed officer of certain circumstances. the Court, cause a debtor to be arrested in British India, and any books, papers, money and goods in his possession there to be seized, and him and them to be safely kept as prescribed until such time as the Court may order under the following circumstances:—

(a) if, after a bankruptcy notice has been issued under this Act, or after presentation of a bankruptcy petition by or against him, it appears to the Court that there is probable reason for believing that he is about to abscond with a view of avoiding payment of the debt in respect of which the bankruptcy notice was issued, or of avoiding service of a bankruptcy petition, or of avoiding appearance to any such petition, or of avoiding examination in respect of his affairs, or of otherwise avoiding, delaying or embarrassing proceedings in bankruptcy against him;

(b) if, after presentation of a bankruptcy petition by or against him, it appears to the Court that there is probable cause for believing that he is about to remove his property with a view of preventing or delaying possession being taken of it by the official receiver or trustee, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his property or any books, documents or writings which might be of use to his creditors in the course of his bankruptcy;

(c) if, after service of a bankruptcy petition on him, or after a receiving order is made against him, he removes any property in his possession above the value of fifty rupees without the leave of the official receiver or trustee;

(d) if, without good cause shown, he fails to attend any examination ordered by the Court;

Provided that no arrest upon a bankruptcy notice shall be valid and protected unless the debtor before or at the time of his arrest shall be served with such bankruptcy notice.

(2) No payment or composition made or security given after arrest made under this section shall be exempt from the provisions of the Act relating to fraudulent preferences.

25. Where a receiving order is made against a debtor, the Court, on the application of the [46 & 47 Vic. c. 52, s. 26.] official receiver or trustee, may, from time to time, order that for such time,

not exceeding three months, as the Court thinks fit, post letters addressed to the debtor at any place or places mentioned in the order for re-direction shall be re-directed, sent or delivered by the Postal authorities in British India to the official receiver, or the trustee, or otherwise as the Court directs, and the same shall be done accordingly.

26. (1) The Court may, on the application of the official receiver or trustee, at any time after a receiving order has been made against a debtor, summon before it the debtor or his wife, or any person known or suspected to have in his possession any property belonging to the debtor, or supposed to be indebted to the debtor, or any person whom the Court may deem capable of giving information respecting the debtor, his dealings or property; and the Court may require any such person to produce any documents in his custody or

*The Indian Bankruptcy Bill, 1885.**(Part II.—Annulment of Adjudication.—Sections 27-30.)*

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to the Court at the time of its sitting and allowed by it, the Court may, by warrant, cause him if in British India to be apprehended and brought up for examination.

(3) The Court may examine on oath, either by word of mouth or by written interrogatories, any person so brought before it concerning the debtor, his dealings or property.

(4) If any person on examination before the Court admits that he is indebted to the debtor, the Court may, on the application of the official receiver or trustee, order him to pay to the receiver or trustee, at such time and in such manner as to the Court seems expedient, the amount admitted, or any part thereof, either in full discharge of the whole amount in question or not, as the Court thinks fit, with or without costs of the examination.

(5) If any person on examination before the Court admits that he has in his possession any property belonging to the debtor, the Court may, on the application of the official receiver or trustee, order him to deliver to the official receiver or trustee such property, or any part thereof, at such time, and in such manner, and on such terms as to the Court may seem just.

(6) The Court may, if it think fit issue a commission for the examination beyond the limits of British India of any person who if in British India would be liable to be brought before it for examination under this section.

Discharge of Bankrupt.

27. (1) A bankrupt may, at any time after being adjudged bankrupt, apply to the Court for an order of discharge, and the Court shall appoint a day for hearing the application, but the application shall not be heard until the public examination of the bankrupt is concluded. The application shall be heard in open Court.

(2) On the hearing of the application the Court shall take into consideration a report of the official receiver as to the bankrupt's conduct and affairs, and may either grant or refuse an absolute order of discharge, or suspend the operation of the order for a specified time, or grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the bankrupt, or with respect to his after acquired property. Provided that the Court shall refuse the discharge in all cases where the bankrupt has committed any offence under this Act, or under section 421, 422, 423 or 424 of the Indian Penal Code or any amendment thereof, and shall, on proof of any of the facts hereinafter mentioned, either refuse the order, or suspend the operation of the order, for a specified time, or grant an order of discharge, subject to such conditions as aforesaid.

(3) The facts hereinbefore referred to are—

(a) that the bankrupt has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his bankruptcy;

(b) that the bankrupt has continued to trade after knowing himself to be insolvent;

(c) that the bankrupt has contracted any debt provable in the bankruptcy without having at the time of contracting it any reasonable or probable ground of expectation (proof whereof shall lie on him) of being able to pay it;

(d) that the bankrupt has brought on his bankruptcy by rash and hazardous speculations or unjustifiable extravagance in living;

(e) that the bankrupt has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action or suit properly brought against him;

(f) that the bankrupt has within three months preceding the date of the receiving order, when unable to pay his debts as they become due, given an undue preference to any of his creditors;

(g) that the bankrupt has on any previous occasion been adjudged bankrupt, or made under any enactment in force in any part of Her Majesty's dominions a composition or arrangement with his creditors;

(h) that the bankrupt has been guilty of any fraud or fraudulent breach of trust.

(4) For the purposes of this section the report of the official receiver shall be *prima facie* evidence of the state-

in the prescribed manner and sent fourteen days at least before the day so appointed to each creditor who has proved, and the Court may hear the official receiver and the trustee, and may also hear any creditor. At the hearing the Court may put such questions to the debtor and receive such evidence as it may think fit.

(6) The Court may, in making an order of discharge, pass a decree against the debtor in favour of the official receiver or trustee for any balance of the debts provable under the bankruptcy which is not satisfied at the date of his discharge; but in such case the decree shall not be executed without leave of the Court, which leave may be given on proof that the bankrupt has since his discharge acquired property or income available for payment of his debts.

(7) A discharged bankrupt shall, notwithstanding his discharge, give such assistance as the trustee may require in the realization and distribution of such of his property as is vested in the trustee, and if he fails to do so he shall be guilty of a contempt of Court; and the Court may also, if it thinks fit, revoke his discharge, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done subsequent to the discharge, but before its revocation.

28. In either of the following cases; that is to say,—

(1) in the case of a settlement made before and in consideration of marriage where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement; or

(2) in the case of any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest (not being money or property of or in right of his wife);

if the settlor is adjudged bankrupt or compounds or arranges with his creditors, and it appears to the Court that such settlement, covenant or contract was made in order to defraud or delay creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the Court may refuse or suspend an order of discharge or grant an order subject to conditions or refuse to approve a composition or arrangement, as the case may be, in like manner as in cases where the debtor has been guilty of fraud.

29. (1) An order of discharge shall not release the bankrupt from any debt on a recognizance, or from any debt with which the bankrupt may be chargeable at the suit of the Crown or of any person for any offence against an enactment relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence; and he shall not be discharged from such excepted debts unless the Government certifies in writing its consent to his being discharged therefrom.

(2) An order of discharge shall not release the bankrupt from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party nor from any debt or liability whereof he has obtained forbearance by any fraud to which he was a party.

(3) An order of discharge shall release the bankrupt from all other debts provable in bankruptcy.

(4) An order of discharge shall be conclusive evidence of the bankruptcy, and of the validity of the proceedings therein; and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

(5) An order of discharge shall not release any person who at the date of the receiving order was a partner or co-trustee with the bankrupt or was jointly bound or had made any joint contract with him, or any person who was surety or in the nature of a surety for him.

PART II.

ANNULMENT OF ADJUDICATION.

30. (1) Where in the opinion of the Court a debtor ought not to have been adjudged bankrupt, or where it is proved to the satisfaction of the Court that the debts of the bankrupt are paid in full, or where proceedings are pending in the United Kingdom or any other part of Her Majesty's dominions beyond the limits of British India for the distribution of the estate and effects of the bankrupt

37. The bankruptcy of a debtor whether the same takes place on the basis of a petition filed by the debtor or upon that of a creditor or creditors.

*The Indian Bankruptcy Bill, 1885.**(Part III.—Administration of Property.—Sections 38-41.)*

which a receiving order is made against him, or if the bankrupt is proved to have committed more acts of bankruptcy than one, to have relation back to, and to commence at, the time of the first of the acts of bankruptcy proved to have been committed by the bankrupt, within three months next preceding the date of the presentation of the bankruptcy petition; but no bankruptcy petition, receiving order or adjudication shall be rendered invalid by reason of any act of bankruptcy anterior to the date of the petitioning creditor.

3 & 47 Vic., c. 61.]

38. The property of the bankrupt divisible amongst his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following particulars:—

(1) property held by the bankrupt on trust for any other person;

1 & 12 Vic., c. 7.]

(2) the tools (if any) of his trade and the necessary wearing apparel and bedding of himself, his wife and children, to a value, inclusive of tools and apparel and bedding, not exceeding two hundred rupees in the whole.

But it shall comprise the following particulars:—

1 & 12 Vic., c. 7.]

(i) all such property as may belong to or be vested in the bankrupt at the commencement of the bankruptcy or may be acquired by or devolve on him before his discharge;

(ii) the capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or before his discharge, except the right of nomination to a vacant ecclesiastical benefice; and

31 & 32 Vic., c. 23.]

(iii) all moveable property being, at the commencement of the bankruptcy, in the possession, order or disposition of the bankrupt, in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof: Provided that things in action, other than debts due or growing due to the bankrupt in the course of his trade or business, shall not be deemed moveable property within the meaning of this section.

Effect of Bankruptcy on antecedent Transactions.

Cf. Act XIV of 1803, s. 203
3 & 47 Vic., c. 61, s. 45.]

39. (1) Where execution of a decree has issued against the property of a debtor, no person shall be entitled to the benefit of the execution against the trustee in bankruptcy of the debtor, except in respect of assets realized in the course of the execution by sale or otherwise before the date of the receiving order, and before notice of the presentation of any bankruptcy petition by or against the debtor, or of the commission of any available act of bankruptcy by the debtor, has been given to the Court executing the decree.

(2) Nothing in this section shall affect the rights of a mortgagee or encumbrancer of property against which a decree is executed.

22 & 27 Vic., c. 42, s. 40.]

40. (1) Where execution of a decree has issued against any property of a debtor which is saleable in execution, and before the sale thereof notice is given to the Court executing the decree that a receiving order has been made against the debtor, the Court shall, on application, direct the property to be delivered to the official receiver or trustee under the order, but the costs of the execution shall be a charge on the property so delivered, and the official receiver or trustee may sell the property or an adequate part thereof for the purpose of satisfying the charge.

(2) An execution levied against the property of a debtor is not invalid by reason only of its being an act of bankruptcy, and a person who purchases the property in good faith under a sale in execution shall in all cases acquire a good title to them against the trustee in bankruptcy.

30 & 47 Vic., c. 42, s. 47.]

41. (1) Any settlement of property not being a settlement made before and in consideration of marriage, or made in favour of a partner or inmate in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has been set to the settlor after marriage, in right of his wife, shall, if the settlor becomes bankrupt within two years after the date of the settlement, be void against the trustee in the bankruptcy, and shall, if the settlor becomes bankrupt at any subsequent time within ten years after the date of the settlement, be void against the trustee in the bankruptcy, unless the parties claiming under the settlement

can prove that the settlor was at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement, and that the interest of the settlor in such property had passed to the trustee of such settlement on the execution thereof.

(2) Any covenant or trust made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property or of in right of his wife shall, on his becoming bankrupt, before the property or money has been actually transferred or paid pursuant to the contract or covenant, be void against the trustee in the bankruptcy.

(3) "Settlement" shall for the purposes of this section include any conveyance or transfer of property.

42. (1) Every conveyance or transfer of property or charge thereon made, every payment made, every obligation incurred and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor, or any person in trust for any creditor, with a view of giving such creditor a preference over the other creditors, shall, if the person making, taking, paying or suffering the same is a judgment bankrupt on a bankruptcy petition presented within three months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee in the bankruptcy.

(2) This section shall not affect the rights of any person making title in good faith and for valuable consideration through or under a creditor of the bankrupt.

43. Subject to the foregoing provisions of this Act with respect to the effect of bankruptcy on transactions with an execution or attachment, and with respect to the avoidance of certain settlements and preferences, nothing in this Act shall invalidate in the case of a bankruptcy

(a) any payment of the bankrupt to any of his creditors;

(b) any payment or delivery to the bankrupt;

(c) any conveyance or assignment by the bankrupt for valuable consideration;

(d) any contract, dealing or transaction by or with the bankrupt for valuable consideration;

Provided that both the following conditions are complied with, namely:—

(1) the payment, delivery, conveyance, assignment, contract, dealing or transaction, as the case may be, takes place before the date of the receiving order; and

(2) the person (other than the debtor) to, by or with whom the payment, delivery, conveyance, assignment, contract, dealing or transaction was made, executed or entered into, has not at the time of the payment, delivery, conveyance, assignment, contract, dealing or transaction notice of any available act of bankruptcy committed by the bankrupt before that time.

Realization of Property.

44. (1) The trustee shall, as soon as may be, take possession of the deeds, books and documents of the bankrupt, and all other parts of his property capable of manual delivery.

(2) The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position as if he were a receiver of the property appointed under section 53 of the Code of Civil Procedure, and shall have such of the powers conferable on a receiver under that section as may be specified in general rules, and the Court may, on his application enforce such acquisition or retention as of right.

(3) Where any part of the property of the bankrupt consists of stock, shares in ships, shares or any other property transferable in the books of any company, office or person, the trustee may exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt.

(4) Where any part of the property of the bankrupt consists of things in action, such things shall be deemed to have been duly assigned to the trustee.

(5) Any treasurer or other officer, or any banker, attorney or agent of a bankrupt, shall pay and deliver to the trustee all money and securities in his possession or power, as such officer, banker, attorney or agent, which he is not by law entitled to retain as against the bankrupt or the trustee. If he does not, he shall be guilty of a contempt of Court, and may be punished accordingly on the application of the trustee.

31 & 32 Vic., c. 21, s. 21.
30 & 47 Vic., c. 42, s. 40.]

31 & 47 Vic., c. 42, s. 49.]

XIV of 1803.

31 & 32 Vic., c. 21, s. 23.]

The Indian Bankruptcy Bill, 1885.
(Part III.—Administration of Property.—Sections 45-49.)

45. Any person acting under warrant of the Court may seize any part of the property of a bankrupt in the custody or possession of the bankrupt, or of any other person in British India, and with a view to such seizure may break open any house, building, or room of the bankrupt where the bankrupt is supposed to be, or any building or receptacle of the bankrupt where any of his property is supposed to be; and where the Court is satisfied that there is reason to believe that property of the bankrupt is concealed in a house or place in British India not belonging to him, the Court may, if it thinks fit, grant a search-warrant to any Police-officer or officer of the Court, who may execute it according to its tenor.

46. (1) Where a bankrupt is an officer of the army or navy or of Her Majesty's Indian marine service, or an officer or clerk or otherwise employed or engaged in the civil service of the Crown, the trustee shall receive for distribution amongst the creditors so much of the bankrupt's pay or salary as the Court, on the application of the trustee, with the consent of the chief officer of the department under which the pay or salary is enjoyed, may direct. Before making any order under this sub-section the Court shall communicate with the chief officer of the department as to the amount, time and manner of the payment to the trustee, and shall obtain the written consent of the chief officer to the terms of such payment.

(2) Where a bankrupt is in the receipt of a salary or income other than as aforesaid, or is entitled to any half pay, or pension, or to any compensation granted by the Government, the Court, on the application of the trustee, shall, from time to time, make such order as it thinks just for the payment of the salary, income, half pay, pension or compensation, or of any part thereof, to the trustee to be applied by him in such manner as the Court may direct.

(3) Nothing in this section shall take away or abridge any power of the chief officer of any public department to dismiss a bankrupt, or to declare the pension, half pay or compensation of any bankrupt to be forfeited.

47. (1) Until a trustee is appointed the official receiver shall be the trustee for the purposes of this Act; and, immediately on a debtor being adjudged bankrupt, the property of the bankrupt shall vest in the trustee.

(2) On the appointment of a trustee the property shall forthwith pass to and vest in the trustee appointed.

(3) The property of the bankrupt shall pass from trustee to trustee, including under that term the official receiver when he fills the office of trustee, and shall vest in the trustee for the time being during his continuance in office, without any conveyance, assignment or transfer whatever.

48. (1) Where any part of the property of the bankrupt consists of any tenancy hereditament with property, or consists of any shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable or not readily salable by reason of its being in the possession thereof to the prejudice of any creditors, or to the payment of any sum of money, the trustee, notwithstanding that he has received a floor or has taken possession of the property, or exercised any act of ownership in relation thereto but subject to the provisions of this section may, by writing signed by him, at any time within three months after the adjudication of bankruptcy, or where a person other than the official receiver is appointed trustee, after the first appointment of a trustee, disclaim the property:

Provided that where any such property shall not have come to the knowledge of the trustee within one month after the adjudication or appointment (as the case may be), he may disclaim such property at any time within two months after he first became aware thereof.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interests and liabilities of the bankrupt and his property in or in respect of the property disclaimed, and shall also discharge the trustee from all personal liability in respect of the property disclaimed as from the date when the property vested in him, but shall not, except so far as is necessary for the purpose of releasing the bankrupt and his property and the trustee from liability, affect the rights or liabilities of any other person.

(3) A trustee shall not be entitled to disclaim a tenancy without the leave of the Court, except in any cases which may be prescribed by general rules; and the Court may, before or on granting such leave, require such notices to be given to persons interested, and impose such terms as a condition of granting leave and make such orders with respect to fixtures, tenant's improvements and other matters arising out of the tenancy as the Court thinks just.

(4) The trustee shall not be entitled to disclaim any property in pursuance of this section in any case where an application in writing has been made to the trustee by any person interested in the property requiring him to decide whether he will disclaim or not, and the trustee has for a period of twenty-eight days after the receipt of the application, or such extended period as may be allowed by the Court, declined or neglected to give notice whether he disclaims the property or not; and, in the case of a contract, if the trustee, after such application as aforesaid, does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

(5) The Court may, on the application of any person who is, as against the trustee, entitled to the benefit or subject to the burden of a contract made with the bankrupt, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise, as to the Court may seem equitable, and any damages payable under the order to any such person may be proved by him as a debt under the bankruptcy.

(6) The Court may, on application by any person either claiming any interest in any disclaimed property, or under any liability not discharged by this Act in respect of any disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or delivery thereof to any person entitled thereto or to whom it may seem just that the sum shall be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Court thinks just; and, on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose:

Provided always that, where the property disclaimed is a tenancy, the Court shall not make a vesting order in favour of any person claiming under the bankrupt, whether as under-tenant or as mortgagee by demise, except upon the terms of making such person subject to the same liabilities and obligations as the bankrupt was subject to under the tenancy in respect of the property at the date when the bankruptcy petition was filed, and any mortgage or under-tenancy declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property; and if there shall be no person claiming under the bankrupt who is willing to accept an order upon such terms, the Court shall have power to vest the bankrupt's estate and interest in the property in any person bound either personally or in a representative character, and either alone or jointly with the bankrupt, to discharge the bankrupt's liabilities and obligations, freed and discharged from all estates, incumbrances and interests created therein by the bankrupt.

(7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the injury, and may accordingly prove the same as a debt under the bankruptcy.

49. (1) Subject to the provisions of this Act, the trustee [11 & 47 Vic. c. 53, s. 50] may do or any way of the following things:—

- (a) sell all or any part of the property of the bankrupt (including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt) by public auction or private contract, with power to transfer, to whole or to any person or company, or to sell the sum in parcels; [11 & 12 Vic. c. 21, s. 31.]
- (b) give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof;
- (c) prove, rank, claim and draw a dividend in respect of any debt due to the bankrupt;
- (d) exercise any powers or capacity to exercise which is vested in the trustee under this Act, and execute any powers-of-attorney, deeds and other instruments for the purpose of carrying into effect the provisions of this Act; [11 & 12 Vic. c. 21, s. 31.]
- (e) deal with property to which the bankrupt is beneficially entitled as tenant in tail or other owner of an estate of inheritance less than an estate in fee-simple in the same manner as the bankrupt might have dealt with it. [Cf. Act XXXI of 1834, s. 2.]

(2) Any dealing by a trustee under clause (e) with any property to which the bankrupt is before his discharge entitled as in that clause mentioned shall, although the bankrupt be dead at the time of that dealing, be as valid and have the same operation as if the bankrupt were then alive. [3 & 4 Wm. IV. c. 74, s. 63.]

The Indian Bankruptcy Bill, 1885.
(Part IV.—Official Receivers.—Sections 50-60.)

50. The trustee may, with the permission of the committee of inspection, do all or any of the following things:—

- (1) carry on the business of the bankrupt, so far as may be necessary for the beneficial winding up of the same;
- (2) bring, institute or defend any action, suit or other legal proceeding relating to the property of the bankrupt;
- (3) employ a solicitor or other agent to take any proceedings or do any business which may be sanctioned by the committee of inspection;
- (4) accept as the consideration for the sale of any property of the bankrupt a sum of money payable at a future time subject to such stipulations as to security and otherwise as the committee think fit;
- (5) mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts;
- (6) refer any dispute to arbitration, compromise all debts, claims and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt, on the receipt of such sums, payable at such times, and generally on such terms as may be agreed on;
- (7) make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of any debts provable under the bankruptcy;
- (8) make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the trustee by any person or by the trustee on any person;
- (9) divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

The permission given for the purposes of this section shall not be a general permission to do all or any of the above-mentioned things, but shall only be a permission to do the particular thing or things for which permission is sought in the specified case or cases.

Distribution of Property.

51. (1) Subject to the retention of such sums as may be necessary for the costs of administration, or otherwise, the trustee shall, with all convenient speed, declare and distribute dividends amongst the creditors who have proved their debts.
- (2) The first dividend if any, shall be declared and distributed within four months after the conclusion of the first meeting of creditors, unless the trustee satisfies the committee of inspection that there is sufficient reason for postponing the declaration to a later date.
- (3) Subsequent dividends shall, in the absence of sufficient reason to the contrary, be declared and distributed at intervals of not more than six months.
- (4) Before declaring a dividend the trustee shall cause notice of his intention to do so to be published in the prescribed manner, and shall also send reasonable notice thereof to each creditor mentioned in the bankrupt's statement who has not proved his debts.
- (5) When the trustee has declared a dividend he shall send to each creditor who has proved a notice showing the amount of the dividend and when and how it is payable, and a statement in the prescribed form as to the particulars of the estate.

52. (1) Where one partner of a firm is adjudged bankrupt, a creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.
- (2) Where joint and separate properties are being administered, dividends of the joint and separate properties shall, subject to any order to the contrary that may be made by the Court on the application of any person interested, be declared together; and the expenses of and incident to such dividends shall be fairly apportioned by the trustee between the joint and separate properties, regard being had to the work done for and the benefit received by each property.

53. In the calculation and distribution of a dividend the trustee shall make provision for debts provable in bankruptcy, appearing from the bankrupt's statement, or otherwise, to be due to persons resident in places so distant from the place where the trustee is acting that in the ordinary course of communication they have not had sufficient time to tender their proofs, or to establish them if disputed, and also for debts provable in bankruptcy the subject of claims not yet determined. He shall also make provision for any disputed proofs or claims, and for the expenses necessary for the administration of the estate or otherwise, and, subject to the foregoing provisions, he shall distribute as dividend all money in hand.

54. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any money for the time being in the hands of the trustee any dividend or dividends he may have failed to receive before that money is applied to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

55. When the trustee has realized all the property of the bankrupt, or so much thereof as can, in the joint opinion of himself and of the committee of inspection, be realized without unduly protracting the trusteeship, he shall declare a final dividend, but before so doing he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified to him, but not established to his satisfaction, that if they do not establish their claims to the satisfaction of the Court within a time limited by the notice he will proceed to make a final dividend without regard to their claims. After the expiration of the time so limited, or, if the Court on application by any such claimant grant him further time for establishing his claims, then on the expiration of such further time the property of the bankrupt shall be divided among the creditors who have proved their debts, without regard to the claims of any other persons.

56. No suit or action for a dividend shall lie against the trustee, but if the trustee refuses to pay any dividend the Court may, if it thinks fit, order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld, and the costs of the application.

57. (1) The trustee, with the permission of the committee of inspection, may appoint the bankrupt himself to superintend the management of the property of the bankrupt, or of any part thereof, or to carry on the trade of the bankrupt for the benefit of his creditors, and in any other respect to and in all matters relating to the property in such manner and on such terms as the trustee may direct.

(2) The trustee may, from time to time, with the permission of the committee of inspection, make such allowance as he may think fit to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services if he is engaged in winding up his estate, but any such allowance may be reduced by the Court.

58. The bankrupt shall be entitled to any surplus remaining after payment in full of his debts, with interest, as by this Act provided, and of the costs, charges and expenses of the proceedings under the bankruptcy petition.

PART IV.

OFFICIAL RECEIVERS.

59. (1) The Chief Justice of each High Court may, at any time after the passing of this Act, and, from time to time, appoint such person as he thinks fit to be official receiver of debtors' estates for that Court, and may remove any person so appointed from that office.

(2) The Local Government may in like manner appoint any such person as it thinks fit to be official receiver of debtors' estates for any other Court having bankruptcy jurisdiction under this Act, and remove any person so appointed from such office.

60. (1) The duties of the official receiver shall have relation both in the conduct of the debtor and to the administration of the estate.

(2) An official receiver may, for the purpose of affidavits verifying proofs, petitions or other proceedings under this Act, administer oaths.

The Indian Bankruptcy Bill, 1885.
(Part I.—Trustees.—Sections 61-67.)

(5) All expressions referring to the trustee under a bankruptcy shall, unless the context otherwise requires, or the Act otherwise provides, include the official receiver when acting as trustee.

(4) The trustee shall supply the official receiver with such information and give him such access to, and facilities for inspecting, the bankrupt's books and documents, and generally shall give him such aid, as may be requisite for enabling the official receiver to perform his duties under this Act.

[46 & 47 Vic., c. 62, s. 69.]

61. As regards the debtor, it shall be the duty of the official receiver—

(1) to investigate the conduct of the debtor and to report to the Court, saying whether there is reason to believe that the debtor has committed any act which constitutes an offence under this Act or under section 421, 422, 423 or 424 of the Indian Penal Code or any amendment thereof, or which would justify the Court in refusing, suspending or qualifying an order for his discharge;

(2) to make such other reports concerning the conduct of the debtor as the Court may direct;

(3) to take such part as may be directed by the Court in the public examination of the debtor;

(4) to take such part and give such assistance in relation to the presentation of any fraudulent debtor as the Court may direct.

XIV of 1869.

[46 & 47 Vic., c. 62, s. 70.]

62. (1) As regards the estate of a debtor it shall be the duty of the official receiver—

(a) pending the appointment of trustee, to act as interim receiver of the debtor's estate, and, where a special manager is not appointed, as manager thereof;

(b) to authorize the special manager to raise money or employ servants for the purposes of the estate in any case where, in the interests of the creditors, it appears necessary so to do;

(c) to summon and preside at the first meeting of creditors;

(d) to issue forms of proxy for use at the meeting of creditors;

(e) to report to the creditors as to any proposal which the debtor may have made with respect to the mode of liquidating his affairs;

(f) to advertise the receiving order, the date of the creditors' first meeting and of the debtor's public examination, and such other matters as it may be necessary to advertise;

(g) to act as trustee where no trustee is appointed or during any vacancy in the office of trustee.

(2) For the purpose of his duties as interim receiver or manager the official receiver shall have such of the powers conferable on a receiver appointed under section 503 of the Code of Civil Procedure as may be specified in the general rules, but shall, as far as practicable, consult the wishes of the creditors with respect to the management of the debtor's property; and may for that purpose, if he thinks it advisable, summon meetings of the persons claiming to be creditors, and shall not, unless the Court otherwise orders, incur any expense beyond such as is requisite for the protection of the debtor's property or the disposing of perishable goods.

Provided that, when the debtor cannot himself prepare a proper statement of affairs, the official receiver may, subject to any prescribed conditions, and at the expense of the estate, employ some person or persons to assist in the preparation of the statement of affairs.

(3) Every official receiver shall account to the Court and pay over all moneys and deal with all securities to such officer as the Court, from time to time, directs.

PART V.

TRUSTEES.

Remuneration of Trustee.

[46 & 47 Vic., c. 62, s. 71.]

63. (1) Where the creditors appoint any person to be trustee of a debtor's estate, his remuneration (hereby) shall be fixed by an ordinary resolution of the creditors, or, if the creditors do not resolve, by the committee of inspection, and shall be in the nature of a commission or percentage of which one part shall be payable on the moneys realized, after deducting any sums paid to reward creditors out of the proceeds of the estate, and the other part on the amount distributed in dividend.

(2) If one-fourth in number or value of the creditors dissent from the resolution, or the bankrupt satisfies the Court that the remuneration is unnecessarily large, the Court shall fix the amount of the remuneration.

(3) The resolution shall express what expenses the remuneration is to cover, and no liability shall attach to the bankrupt's estate, or to the creditors, in respect of any expenses which the remuneration is expressed to cover.

(4) Where no remuneration has been voted to a trustee, he shall be allowed out of the bankrupt's estate such proper costs and expenses incurred by him in or about the proceedings of the bankruptcy as the prescribed officer may allow.

(5) A trustee shall not, under any circumstances whatever, make any arrangement for or accept from the bankrupt, or any solicitor, auctioneer or any other person that may be employed about a bankruptcy, any gift, remuneration or pecuniary or other consideration or benefit whatever beyond the remuneration fixed by the creditors and payable out of the estate, nor shall he make any arrangement for giving up, or give up, any part of his remuneration, either as receiver, manager or trustee, to the bankrupt, or any solicitor or other person that may be employed about a bankruptcy.

Costs.

64. (1) Where a trustee or manager receives remuneration for his services as such, no payment shall be allowed in his accounts in respect of the performance by any other person of the ordinary duties which are required by this Act or the rules made under this Act to be performed by himself.

(2) Where the trustee is a solicitor, he may contract that the remuneration for his services as trustee shall include all professional's fees.

(3) All bills and charges of solicitors, managers, accountants, and others, brokers and other persons, not being trustees, shall be fixed by the prescribed officer, and no payments in respect thereof shall be allowed in the trustee's accounts without proof of such remuneration having been made. The officer shall satisfy himself before passing such bills and charges that the employment of such solicitors and other persons, in respect of the particular matters out of which such charges arise, has been duly sanctioned.

(4) Every such person shall, on request by the trustee (which request the trustee shall make a sufficient time before declaring a dividend), deliver to him a bill of costs or charges to the prescribed officer, and if he fails to do so within seven days after receipt of the request, or such further time as the Court, on application, may grant, the trustee shall declare and distribute the dividend without regard to any claim by him, and thereupon any such claim shall be forfeited as well against the trustee personally as against the estate.

Receipts, Payments, Accounts, Audit.

65. (1) An account called the bankrupt's estates account shall be kept by the Court with such Government treasury or bank as the Governor General in Council may direct, and all moneys realized on account of a bankrupt's estate by the Court or any officer thereof under this Act shall, unless it is otherwise provided, be paid to that account.

(2) Every trustee in bankruptcy shall, in such manner and at such times as the Court, with the sanction of the Governor General in Council, direct, pay the money received by him to the bankrupt's estates account, and the treasury or bank shall furnish him with a certificate of receipt of the money so paid.

(3) Subject to any general rules relating to small bankruptcies under Part VII of this Act, where the debtor at the date of the receiving order has an account at a bank, such account shall not be withdrawn until the expiration of seven days from the day appointed for the first meeting of creditors, unless the Court, for the safety of the account, or other sufficient cause, orders the withdrawal of the account.

(4) If a trustee at any time retains for more than ten days a sum exceeding five hundred rupees, or such other amount as the Court in any particular case authorizes him to retain, then, unless he explains the retention to the satisfaction of the Court, he shall pay interest on the amount so retained in excess of the rate of twenty per centum per annum, and shall have no claim for remuneration, and may be removed from his office by the Court, and shall be liable to pay any expenses occasioned by reason of his default.

(5) All payments out of moneys standing to the credit of the bankrupt's estates account shall be made by the treasury or bank in the prescribed manner.

66. No trustee or any bankrupt, or any composition trustee, shall pay to any person any remuneration or any other consideration for his private banking account.

67. (1) Whenever the cash balance standing to the credit of the bankrupt's estates account is in excess of the amount which, in the opinion of the Court, is required for the time being to answer demands in respect of bankrupt's estates, the Court shall notify the same to such officer as the Governor General in Council may appoint in this behalf, and shall pay over the

*The Indian Bankruptcy Bill, 1885.
(Part V.—Trustees.—Sections 68-79.)*

same, or any part thereof, as the officer may direct, to the officer, and the officer may invest the said sums or any part thereof in Government securities to be placed to the credit of the said account.

(2) Whenever any part of the money so invested is, in the opinion of the Court, required to answer any demands in respect of bankrupt's estates, the Court shall notify to the officer the amount so required, and the officer shall thereupon pay to the Court such sum as may be required to the credit of the bankrupt's estates account, and for that purpose may direct the sale of such part of the said securities as may be necessary.

(3) The dividends on the investments under this section shall be paid to such account as the Governor General in Council may direct, and regard shall be had to the amount thus derived in fixing the fees payable in respect of bankruptcy proceedings.

68. (1) Every trustee shall, at such times as may be prescribed, send to the Court, or as it directs, an account of his receipts and payments as such trustee.

(2) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a declaration in the prescribed form.

(3) The Court shall cause the accounts so sent to be audited, and for the purposes of the audit the trustee shall furnish the Court with such vouchers and information as the Court may require, and the Court may at any time require the production of and inspect any books or accounts kept by the trustee.

(4) When any such account has been audited, a copy thereof shall be filed in the Court, and shall be open to the inspection of any creditor, or of the bankrupt, or of any person interested.

69. The trustee shall, whenever required by any creditor, furnish to such creditor, and on payment by such creditor of the prescribed fee, furnish and transmit to such creditor by post a list of the creditors, showing in such list the amount of the debt due to each of such creditors.

70. The trustee shall keep, in manner prescribed, proper books, in which he shall from time to time make entries or minutes of proceedings at meetings, and of such other matters as may be prescribed; and any creditor of the bankrupt may, subject to the control of the Court, personally or by his agent inspect any such books.

71. (1) Every trustee in a bankruptcy shall from time to time, as may be prescribed, and not less than once in every year, during the continuance of the bankruptcy, submit to the Court a statement showing the proceedings in the bankruptcy up to the date of the statement, containing the prescribed particulars, and made out in the prescribed form.

(2) The Court shall cause the statements so transmitted to be examined, and shall call the trustee to account for any misfeasance, neglect or omission which may appear on the said statements or in his accounts or otherwise, and may require the trustee to make good any loss which the estate of the bankrupt may have sustained by the misfeasance, neglect or omission.

Release of Trustee.

72. (1) When the trustee has realised all the property of the bankrupt, or so much thereof as, in his opinion, he has realised without needlessly protracting the trusteeship, and distributed a final dividend, if any, or has ceased to act by the reason of a composition having been approved, or as resigned, or has been removed from his office, the Court shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the Court, shall take into consideration the report, and any objection which may be urged by any creditor or person interested against the release of the trustee, and shall either grant or withhold the release accordingly.

(2) Where the release of a trustee is withheld, the Court may, on the application of any creditor or person interested, make such order as it thinks just, charging the trustee with the consequences of any act or default he may have done or made contrary to his duty.

(3) An order of the Court releasing the trustee shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee; but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) Where the trustee has not previously resigned or been removed, his release shall operate as a removal of him from his office, and thereupon the official receiver shall be the trustee.

Official Name.

73. The trustee may and he shall be used by the official name of "the trustee of the property of _____, a bankrupt."

and he shall hold property of every description, make contracts, sue and be sued, enter into any engagements binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office.

Appointment and Removal.

74. (1) Subject to the provisions of this Act, the creditors may, if they think fit, appoint more persons than one to the office of trustee; and when more persons than one are appointed they shall declare whether any act required or authorised to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are in this Act included under the term "trustee," and shall be joint-tenants of the property of the bankrupt.

(2) Subject as aforesaid, the creditors may also appoint persons to act as trustees in succession in the event of one or more of the persons first named declining to accept the office of trustee, or failing to give security, or not being approved of by the Court.

75. If a receiving order is made against a trustee, he shall thereby vacate his office of trustee.

76. (1) The creditors may, by ordinary resolution, at a meeting specially called for that purpose, of which seven days' notice has been given, remove a trustee appointed by them, and may at the same or any subsequent meeting appoint another person to fill the vacancy as hereinafter provided in case of a vacancy in the office of trustee.

(2) If the Court is of opinion that a trustee appointed by the creditors is guilty of misconduct, or fails to perform his duties under this Act, the Court may remove him from his office.

77. (1) If a vacancy occurs in the office of a trustee, the creditors in general meeting may appoint a person to fill the vacancy, and thereupon the same proceedings shall be taken as in the case of a first appointment.

(2) The official receiver shall, on the requisition of any creditor, summon a meeting for the purpose of filling any such vacancy.

(3) If the creditors do not within three weeks after the occurrence of a vacancy appoint a person to fill the vacancy, the official receiver shall report the matter to the Court, and the Court may appoint a trustee, but in such case the creditors or committee of inspection shall have the same power of appointing a trustee as in the case of a first appointment.

(4) If no trustee is appointed, and during any vacancy in the office of trustee, the official receiver shall act as trustee and shall have all the powers of a trustee.

Voting Powers of Trustee.

78. The vote of the trustee, or of his partner, clerk, solicitor or solicitor's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the trustee.

Control over Trustee.

79. (1) Subject to the provisions of this Act, the trustee shall, in the administration of the property of the bankrupt, and in the distribution thereof amongst his creditors, have regard to any directions that may be given by resolution of the creditors at any general meeting, or by the committee of inspection; and any directions so given by the creditors at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(2) The trustee may, from time to time, summon general meetings of the creditors for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors, by resolution, either at the meeting appointing the trustee or otherwise, may direct or whenever requested in writing to do so by one-fourth in value of the creditors.

(Part VI.—Constitution, Procedure and Powers of Court.—Sections 80-91.)

87. Subject to the provisions of this Act and to general rules, the Judge of a Court exercising jurisdiction in bankruptcy may exercise in chambers the whole or any part of his jurisdiction.

88. (1) Subject to general rules limiting the powers conferred by this section, the High Court of Judicature at Fort William, Madras or Bombay may, from time to time, direct that, in any matters in respect of which jurisdiction is given to the Court by this Act, a Judge of the Presidency Small Cause Court appointed by it in this behalf shall have all or any of the powers in this section mentioned; and any order made or not done by such Judge of the Small Cause Court in the exercise of the said powers shall be deemed the order of the High Court.

(2) The powers referred to in sub section (1) are the following, namely :—

(a) to hear bankruptcy petitions, and to make receiving and as and administrations thereon;

(b) to hold the public examination of debtors;

(c) to grant orders of discharge :

(d) to approve compositions in schemes of arrangement ;
(e) to make interim orders in any case of urgency ;

(U) to make any order or exercise any jurisdiction which by any rule in that behalf is prescribed as proper to be made or exercised in chambers ;

(g) to hear and determine any unopposed or *ex parte* applications;

(h) to summon and examine any person known or suspected to have in his possession effects of the debtor or to be indebted to him, or capable of giving information respecting the debtor, his dealings or property.

(3) A Judge of the Small Cause Court shall not have power to commit for contempt of Court.

89. A Court appointed by a Local Government under section 82 shall, for the purposes of its powers of Court appointed by Local Government, in addition to its ordinary powers, have all the powers and jurisdiction possessed by any of the said High Courts of Judicature, and the orders of the Court may be enforced accordingly in manner prescribed.

80. (1) Subject to the provisions of this Act, every [an & 47 v
Court having jurisdiction in bankruptcy. c. 62, s. 102]
Court of bankruptcy shall have full power
to decide all questions of priorities, and
all other questions whatsoever, whether of law or fact,
which may arise in any case of bankruptcy coming within
the cognizance of the Court, or when the Court may deem
it expedient or necessary to decide for the purpose of doing
complete justice or making a complete distribution of prop-
erty in any such case.

(2) A Court having jurisdiction in bankruptcy under this Act shall not be subject to be restrained in the execution of its powers under this Act by the order of any other Court, nor shall any appeal lie from its decisions, except in manner directed by this Act.

(3) Where a removing order has been made in any of the said High Courts of Judicature under this Act, the Judge by whom such order was made shall have power, if he sees fit, with all any further consent, to order the transfer to such Judge of any suit or action by or against the bank and pending before any other Judge or Judges of the Court.

(4) Where default is made by a trustee, debtor or other person in obeying any order or direction given by the Court by an official receiver or any other officer of the Court under any power conferred by this Act, the Court may, on the application of the official receiver or other duly authorised person, order such defaulting trustee, debtor or person to comply with the order or direction so given; and the Court may also, if it shall think fit, upon any such application, make an immediate order for the committal of such defaulting trustee, debtor or other person if in British India: Provided that the power given by this sub-section shall be deemed to be in addition to and not in substitution for any other right or remedy in respect of such default.

91. (1) Every Court having jurisdiction in bankruptcy [46 & 47 Vics. c. 61.] under this Act may review, rescind or c. 52, s. 104.] vary any order made by it under its bankruptcy jurisdiction.

(2) Orders in bankruptcy matters shall, at the instance of any person aggrieved, be subject to appeal as follows:—

(a) an appeal shall be from the order of a single Judge of one of the said High Courts of Judicature to the High Court;

CONSTITUTION, PROCEDURE AND POWERS OF COURT

82. (1) The Courts having jurisdiction in bankruptcy

(a) the High Courts of Judicature at Port William, Malacca and Bombay,

(b) The Court of the Records of Burgundy, and

(c) such other Civil Courts as the Local Government, with the previous sanction of the Governor General in Council, may, from time to time, appoint in this behalf in the territories administered by it.

83. For the purposes of this Act the local limits of the jurisdiction of the said Courts shall be as follows, namely :—

(a) the local limits of the jurisdiction of each of the said High Courts of Judicature shall be the local limits for the time being of its ordinary original civil jurisdiction ;

(b) the local limits of the jurisdiction of the Court of the Recorder of Rangoon shall comprise the town of Rangoon, Moulmein, Akyab and Bassein;

(e) the local limits of the jurisdiction of a Court appointed by a Local Government shall be such a way, from time to time, be fixed, with the previous sanction of the Governor-General in Council by that Local Government within the territories administered by it.

84 All matters in respect of which jurisdiction is given by this Act shall, in each of the said High Courts of Judicature, be ordinarily transacted and disposed of by or under the direction of one of the Judges of that Court: and the Chief Justice shall, from time to time, assign a Judge for that purpose.

85. Any proceedings in bankruptcy pending in any Court appointed by the local Government of a province under section 82 may at any time, and at any stage thereof, and either with or without application from any of the parties thereto, be transferred by the High Court to the province to itself or to any other Court appointed as aforesaid in the province.

86. If any question of law arises in any bankruptcy proceeding in a Court appointed by the Local Government of a province under section 82, and all the parties to the proceeding desire, or one of them and the Judge of the Court so desire, to have the question determined in the first instance in the High Court of the province, the Judge shall state the facts in the form of a special case, for the opinion of that High Court. The special case and the proceedings, if such of them as may be required, shall be transmitted to the High Court for the purposes of the determination.

*The Indian Bankruptcy Bill, 1885.**(Part VII.—Small Bankruptcies.—Part VIII.—Fraudulent Debtors and Creditors.—Sections 92-105.)*

(b) an appeal shall lie from the order of the Court of the Recorder of Rangoon to the Special Court;

(c) an appeal shall lie from the order of a Court appointed by a local Government under section 82 to the High Court of the province;

(d) no appeal shall be entertained except in conformity with such general rules as may for the time being be in force in relation to the appeal.

Procedure.

92. (1) Subject to the provisions of this Act and to general rules, the costs of and incidental to any proceeding in Court under this Act shall be in the discretion of the Court.

(2) The Court may at any time adjourn any proceedings before it upon such terms, if any, as it may think fit to impose.

(3) The Court may at any time amend any written process or proceeding under this Act upon such terms, if any, as it may think fit to impose.

(4) Where by this Act or by general rules the time for doing any act or thing is limited, the Court may extend the time either before or after the expiration thereof, upon such terms, if any, as the Court may think fit to impose.

(5) Subject to general rules, the Court may in any matter take the whole or any part of the evidence either *ad voce* or by interrogatories, or upon affidavit, or by omission beyond the limits of British India.

(6) For the purpose of appointing a composition or scheme of joint debtors, the Court may, if it thinks fit, and on the report of the official receiver that it is expedient so to do, dispense with the public examination of one of such joint debtors if he is unavoidably prevented from attending the examination by illness or absence abroad.

93. Where two or more bankruptcy petitions are presented against the same debtor or against joint debtors, the Court may consolidate the proceedings, in any of them, on such terms as the Court thinks fit.

94. Where the petitioner does not proceed with due diligence on his petition, the Court may substitute as petitioner any other person to whom the debtor may be indebted in the amount required by this Act in the case of the petitioning creditor.

95. If a debtor by or against whom a bankruptcy petition has been presented dies, the proceedings in the matter shall, unless the Court otherwise orders, be continued as if he were alive.

96. The Court may at any time, for sufficient reason, make an order staying the proceeding under a bankruptcy petition, either altogether or for a limited time, on such terms and subject to such conditions as the Court may think just.

97. Any creditor whose debtor is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present a petition against any one or more partners of the firm without including the others.

98. Where there or more respondents than one in a petition, the Court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them.

99. Where a receiving order has been made on a bankruptcy petition against or by one member of a partnership, any other bankruptcy petition against or by member of the same partnership shall be filed in or transferred to the Court in which the first-mentioned petition is in course of prosecution; and if a trustee has been appointed in respect of the property of the first-mentioned member of the partnership, the same trustee shall, unless the Court otherwise directs, be appointed in respect of the property of the last-mentioned member, and the Court may give such directions for consolidating the proceedings under the petitions as it thinks just.

100. Where a member of a partnership is adjudged bankrupt, the Court may authorise the trustee to commence and prosecute any suit or action in the names of the trustee and of the bankrupt's partner; and any release by such partner of the debt or demand to which the action relates shall be void; but notice of the application for authority to commence the suit or action shall be given to him, and he may show cause against it, and on his application the Court may, if

the proceeds of the action, and if he does not claim any benefit therefrom, shall be indemnified against costs in respect thereof as the Court directs.

101. Where a bankrupt is a contractor in respect of any contract jointly with any person or persons, such person or persons may sue or be sued in respect of the contract without the joinder of the bankrupt.

102. Any two or more persons, being partners, or any person carrying on business under a partnership name, may take proceedings against another partner, or the name of the firm; but in such case the Court may, on application by any person interested, order the names of the persons who are partners in such firm, or the name of such person to be disclosed in such manner, and verified on oath, or otherwise as the Court may direct.

PART VII.

SMALL BANKRUPTCIES.

103. When a petition is presented by or against a debtor, or if the Court is satisfied by affidavit or otherwise, or the official receiver reports to the Court, that the property of the debtor is not likely to exceed in value three thousand rupees, the Court may make an order that the debtor's estate be administered in accordance with the provisions of this Act, shall be subject to the following modifications:—

(a) if the debtor is a judged bankrupt, the official receiver shall be the trustee in the bankruptcy;

(b) there shall be no committee of inspection, but the official receiver may do with the permission of the Court all things which may be done by the trustee with the permission of the committee of inspection;

(c) such other modifications may be made in the provisions of this Act as may be prescribed by general rules, with a view of saving expense and simplifying procedure, but nothing in this section shall prevent the application of the provisions of this Act relating to the examination or discharge of the debtor.

Provided that the creditors may at any time, with the previous permission of the Court, by special resolution, resolve that some person other than the official receiver be appointed trustee in the bankruptcy, and then upon the bankruptcy petition shall proceed as if an order for summary administration had not been made.

PART VIII.

FRAUDULENT DEBTORS AND CREDITORS.

101. (1) This part shall extend to British India.

(2) "The Court" in this Part means the Court before which an accused person is tried.

(3) Nothing in this Part shall prevent any person from being prosecuted under any other law for a crime or omission which constitutes an offence under this Part, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Part.

Provided that a person shall not be punished twice for the same offence.

105. Any person against whom a receiving order has been made under this Act shall, in each of the cases following, be punished with imprisonment which may extend to two years, or with fine, or with both; that is to say,—

(a) If he does not, to the best of his knowledge and belief, fully and truly disclose to the trustee administering his estate for the benefit of his creditors all his property, and how, and to whom, and for what consideration, and when he disposed of any part thereof, except such part as he has disposed of in the ordinary way of his trade (if any), or laid out in the ordinary expense of his family, unless the Court is satisfied that he had no intent to defraud;

(b) If he does not deliver up to such trustee, or as he directs, all such part of his property as is in his custody or under his control, and which he is required by law to deliver up, unless the Court is satisfied that he had no intent to defraud;

(c) If he does not deliver up to such trustee, or as he directs, all books, documents, papers and writings in his custody or under his control relating to his property or affairs, unless the Court is satisfied that he had no intent to defraud.

*The Indian Bankruptcy Bill, 1885.**(Part VIII.—Supplemental Provisions.—Sections 106-114.)*

- (d) If after the presentation of a bankruptcy petition by or against him, or within four months next before such presentation, he conceals any part of his property to the value of one hundred rupees or upwards, or conceals any debt due to or from him, unless the Court is satisfied that he had no intent to defraud:
- (e) If after the presentation of a bankruptcy petition by or against him, or within four months next before such presentation, he fraudulently removes any part of his property of the value of one hundred rupees or upwards:
- (f) If he makes any material omission in any statement relating to his affairs, unless the Court is satisfied that he had no intent to defraud:
- (g) If knowing or believing that a false debt has been proved by any person under the bankruptcy, he fails for the period of a month to inform such trustee as aforesaid thereof:
- (h) If after the presentation of a bankruptcy petition by or against him, he reveals the production of any book, document, paper or writing affecting or relating to his property or affairs, unless the Court is satisfied that he had no intent to conceal the state of his affairs or to defeat the law:
- (i) If after the presentation of a bankruptcy petition by or against him, or within four months next before such presentation, he conceals, destroys, in fraud or falsifies, or is party to the concealment, destruction, mutilation or falsification of, any book or document affecting or relating to his property or affairs, unless the Court is satisfied that he had no intent to conceal the state of his affairs or to defeat the law:
- (j) If after the presentation of a bankruptcy petition by or against him, or within four months next before such presentation, he makes or is party to the making of any false entry in any book or document affecting or relating to his property or affairs, unless the Court is satisfied that he had no intent to conceal the state of his affairs or to defeat the law:
- (k) If after the presentation of a bankruptcy petition by or against him, or within four months next before such presentation, he fraudulently parts with, alters or makes any omission, or is party to the fraudulently parting with, altering or making any omission, in any document affecting or relating to his property or affairs:
- (l) If after the presentation of a bankruptcy petition by or against him, or at any meeting of his creditors within four months next before such presentation, he attempts to account for any part of his property by fictitious losses or expenses:
- (m) If while undischarged he obtains credit to the extent of two hundred rupees or upwards from any person without informing such person that he is an undischarged bankrupt:
- (n) If within four months next before the presentation of a bankruptcy petition by or against him, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same:
- (o) If within four months next before the presentation of a bankruptcy petition by or against him, he, being a trader, claims under the false pretence of carrying on business and dealing in the ordinary way of his trade, any property on credit, and has not paid for the same, unless the Court is satisfied that he had no intent to defraud:
- (p) If within four months next before the presentation of a bankruptcy petition by or against him, he, being a trader, pawns, pledges or disposes of, otherwise than in the ordinary way of his trade, any property which he has obtained on credit and has not paid for, unless the Court is satisfied that he had no intent to defraud:
- (q) If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to any agreement with reference to his affairs or his bankruptcy.
106. If any person against whom a receiving order has been made under this Act after the presentation of a bankruptcy petition by or against him, or within four months next before such presentation, quits British India and takes with him, or omits or makes preparation for quitting British India, for taking with him any part of his property to the extent of two hundred rupees or upwards, which ought law to be divided amongst his creditors, he shall, unless the Court is satisfied that he had no intent to defraud, be

punished with imprisonment which may extend to two years, or with fine, or with both.

107. Any person shall in each of the cases following be punished with imprisonment which may extend to one year, or with fine, or with both; that is to say,—

- (1) if in incurring any debt or liability he has obtained credit under false pretences, or by means of any other fraud;
- (2) if he has with intent to defraud his creditors, or any of them, made, or caused to be made, any gift, delivery or transfer of or any charge on his property;
- (3) if he has, with intent to defraud his creditors, concealed or removed any part of his property since or within two months before the date of any unsatisfied decree or order for payment of money obtained against him.

108. If any creditor, in any bankruptcy composition or arrangement with creditors, wilfully makes any false claim, or any proof, declaration or statement of account which is untrue in any material particular, he shall be punished with imprisonment which may extend to one year, or with fine, or with both.

109. Where a debtor makes any composition or arrangement with his creditors, he shall remain liable for the unpaid balance of debt which he incurred or increased, or whereof before the date of the arrangement or composition he obtained forbearance, by any fraud, provided the defrauded creditor has not assented to the arrangement or composition otherwise than by proving his debt and accepting dividends.

110. Where the official receiver or a trustee in any bankruptcy reports to any Court exercising jurisdiction in bankruptcy that in his opinion a debtor against whom a receiving order has been made under this Act has been guilty of any offence under this Act, or under section 121, 122, 123 or 124 of the Indian Penal Code, or where any such Court is satisfied upon the representation of any creditor or member of the committee of inspection that there is ground to believe that the debtor has been guilty of any offence as aforesaid, that Court shall, if it appears to it that there is a reasonable probability that the debtor may be convicted, under the official receiver or trustee to prosecute him for such offence.

111. Where a debtor has been guilty of any offence he shall not be exempt from being prosecuted therefor by reason that he has obtained his discharge or that a composition or scheme of arrangement has been accepted or approved.

PART IX.

SUPPLEMENTAL PROVISIONS.

Application of Act.

112. A married woman shall, in respect of her separate property (if any), be subject to this Act in the same way as if she were unmarried.

113. A receiving order shall not be made against any corporation, or against any partnership, firm or company registered under any enactment relating to companies for the time being in force.

114. (1) Any creditor of a deceased debtor whose debt would have been sufficient to support a bankruptcy petition against such debtor, had he been alive, may present to the Court a petition in the prescribed form praying for an order for the administration of the estate of the deceased debtor according to the Law of Bankruptcy.

(2) Upon the prescribed notice being given to the executor, administrator or other legal representative of the deceased debtor, the Court may, in the prescribed manner, upon proof of the petitioner's debt, unless the Court is satisfied that there is a reasonable probability that the estate will be sufficient for the payment of the debts owing by the deceased, make an order for the administration in bankruptcy of the deceased debtor's estate, or may upon cause shown dismiss such petition with or without costs.

(3) An order of administration under this section shall not in cases where a grant of probate or administration is required to establish a title as legal representative, be made until the expiration of two months from the date of the

(Part IX.—Supplemental Provisions.—Sections 115-121.)

grant of probate or letters of administration, unless with the concurrence of the legal representative of the deceased debtor, or, unless the petitioner proves to the satisfaction of the Court that the debtor committed an act of bankruptcy within three months prior to his decease.

(4) A petition for administration under this section shall not be presented to the Court after proceedings have been commenced in any Court of justice for the administration of the deceased debtor's estate; but that Court may, in such case, on the application of any creditor, and on proof that the estate is insufficient to pay its debts, transfer the proceedings to the Court exercising jurisdiction in bankruptcy, and thereupon such last-mentioned Court may, in the prescribed manner, make an order for the administration of the estate of the deceased debtor, and the like consequences shall ensue as under an administration order made on the petition of a creditor.

(3) Upon an order being made for the administration of a deceased debtor's estate, the property of the debtor shall vest in the official receiver of the Court, as trustee thereof, and he shall forthwith proceed to realize and distribute the same in accordance with the provisions of this Act.

(6) With the modifications hereinafter mentioned, all the provisions of Part III of this Act, relating to the administration of the property of a bankrupt, shall, so far as the same are applicable, apply to the case of an administration order, and this section in like manner as to an order of liquidation under this Act.

(7) In the administration of the property of the deceased debtor under an order of a Commissioner, the official receiver shall have regard to any claim by the legal representative of the deceased debtor in payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate, and such claims shall be deemed a preferential debt under the order, and be payable in full, out of the debtor's estate, in priority to all other debts.

(8) If, on the administration of a deceased debtor's estate, any surplus remains in the hands of the officer or receiver, after payment in full of all the claims due from the debtor, together with the cost of the administration and interest as provided by this Act in case of bankruptcies, such surplus shall be paid over to the legal representative of the deceased debtor's estate, or dealt with in the same manner as may be prescribed.

(b) Notice to the legal representative of a deceased debtor of the presentation by a creditor of a petition under this section shall, in the event of an order for administration being made thereon, be deemed to be equivalent to notice of a act of bankruptcy and all such notice as payment or transfer of property made by the legal representative shall operate as a discharge to him as between himself and the official receiver, save as aforesaid and nothing in this section shall invalidate any payment made or any act or thing done in good faith by the legal representative before the date of the order for administration.

(10) Unless the court at the time requires, "Court," in this section, means the Court exercising jurisdiction in bankruptcy within the legal limits of the jurisdiction of which the debtor resided or carried on business for the greater part of the six months immediately prior to his decease; "creditor" means one or more creditors qualified to present a bankruptcy petition as in this Act provided.

(III) General rules, for carrying into effect the provisions of this section, may be made in the same manner and to the like effect and extent as in bankruptcy.

Cinnamomum *lanceolatum*.

115 (1) The High Court of Agr. vnce. may, from time to time, with the concurrence of the Governor General in Council make, revoke and alter general rules for carrying into effect the objects of this Act.

(2) All general rules made under the foregoing provisions of this section shall be judicially noticed, and shall have effect as if enacted by this Act.

(3) Such general titles as may be required for purposes of this Act may be made at any time after the passing of this Act.

(4) Provided that the said general rules so made, revoked or altered shall not extend the jurisdiction of the Court.

(5) After the commencement of this Act no general order under the provisions of this section shall remain in operation until the expiration of one month after the same has been made and issued.

Fees and Remuneration.

116. (1) The High Court of a province may, with the previous sanction of the Governor General in Council, from time to time make regulations for the fees and remuneration of its officers and servants.

whom and in what manner the same are to be collected, accounted for, and to what account they shall be paid.

(2) The High Court may, with the like sanction, from time to time fix the remuneration to be paid to the official receivers.

(3) This section shall come into operation on the passing of this Act.

Evidence.

117. (1) A copy of the *Gazette of India* or of a Local [46 & 47 Vic.,
Gazettes to be ev- Government, containing any notice 52, s. 183.]
dence, inserted therein in pursuance of this
Act or the rules made under this Act, shall be evidence of
the facts stated in the notice.

(2) The production of a copy of the Gazette containing any notice of a receiving order, or of an order adjudging a debtor bankrupt, shall be conclusive evidence in all legal proceedings of the order having been duly made, and of its date.

118. (1) A minute of proceedings at a meeting of creditors under this Act, signed at the same time as the next ensuing meeting by a person describing himself as, or appearing to be, chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(2) Until the contrary is proved, every meeting of creditors in respect of the proceedings, whereof a minute has been so signed shall be deemed to have been duly convened and held, and all resolutions passed or proceedings had thereat to have been duly passed or had.

119. Any petition or copy of a petition in bankruptcy. [as & or Vin.
Evidence of non-compliance with any order or mandate or copy of an 52, s. 134.]
order in bankruptcy. Any order or mandate made by any Court
having jurisdiction to make such order or mandate or copy of
of an instrument or any copy thereof made or used in the
course of any judicial proceedings in any Court or proceedings
held under the Act. Such instrument or copy sealed with the
seal of any Court having jurisdiction in bankruptcy, or
purporting to be so sealed by any judge, clerk, or is certified
under any copy by any Court or officer of the Court to be receivable in
evidence in all proceedings in bankruptcy.

120. Subject to general rules and may be used in swearing of oath and a book upon which it is sworn—

(d) in British India, before—
 (a) any Court or Magistrate;
 (b) any officer or Magistrate of a province
 may appear in this behalf or
 (c) any other competent by any other Court which
 the local Government has specially or speci-
 ally empowered to do so.

(2) in England, before any person authorized to administer oaths in Her Majesty's High Court of Justice, or in the Court of Chancery or the County Palatine of Lancaster, or before any Registrar of a Bankruptcy Court, or before any officer of a Bankruptcy Court authorized to act on that behalf by the Judge of the Court.

in Scotland or in Ireland to be a Judge Ordinary,
Magistrate or Justice of the Peace, or

It is in any other place held as a Magistrate or Justice of the Peace or other person qualified to administer oaths in that place (in being entitled to be a Magistrate or Justice of the Peace or qualified as aforesaid by a British Minister or British Consul or Political Agent or by a notary public).

131. In case of the death of the debtor, or his wife, or of any witness whose evidence has been received by any Court in any proceeding under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the Court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.

122. Every Court having jurisdiction in bankruptcy, under this Act shall have a seal of such design as the Court in such province may be directed by order of the High Court of the Province, and judicial notice shall be taken in all legal proceedings of the seal, and of the signature of the Judge or Registrar of any such Court having such jurisdiction.

123. A certificate of the Court, that a person has been appointed trustee under this Act, shall be conclusive evidence of his appointment.

Time.

124. (1) When by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that

The Indian Bankruptcy Bill, 1855.
(Part IX.—*Supplemental Provisions.*—Sections 125-134.)

limited time the same shall be taken as exclusive of the day of that date or of the happening of that event, and as commencing at the beginning of the next following day, and the act or proceeding shall be done or taken at latest on the last day of that limited time as so computed, unless the last day is a day on which the Court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court sits.

(2) Where by this Act any act or proceeding is directed to be done or taken on a certain day, then, if that day happens to be a day on which the Court does not sit, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court sits.

Notices.

125. All notices and other documents for the service of which no special mode is directed may be sent by prepaid post letter to the last known address of the person to be served therein.

Formal Defects.

126. (1) No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the Court before which an objection is made to the proceedings is of opinion that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of that Court.

(2) No defect or irregularity in the appointment or election of a receiver, trustee or member of a committee of inspection shall vitiate any act done by him in good faith.

Bankrupt Trustee.

127. Where a bankrupt is a trustee within the Indian Trustee Act, 1850, section 35 of that Act shall have effect so as to authorize the appointment of a new trustee in substitution for the bankrupt (whether voluntarily resigning or not), if it appears expedient to do so, and all provisions of that Act, and of any other Act relative thereto, shall have effect accordingly.

Corporations, &c.

128. For all or any of the purposes of this Act, a corporation may act by any of its officers authorised in that behalf under the seal of the corporation, a firm may act by any of its members; and a limited company by its committee, manager or manager, or, when the matter is one in respect of which he has been placed under the care of a Court of Wards, by that Court or such person as it may appoint in this behalf.

Construction of former Acts, &c.

129. Where by any enactment or instrument reference is made to the 11 & 12 Vict. cap. 21, that reference shall be construed as a reference to the 11 & 12 Vict. cap. 21, and shall be construed as a reference to the 11 & 12 Vict. cap. 21, and shall be construed as a reference to the 11 & 12 Vict. cap. 21.

130. The provisions of the Act relative to the creation of a charge upon the property of a debtor, and the effect of a charge shall bind the Crown.

131. Nothing in this Act, or in any transfer of property, shall be construed as affecting the right of any person to have his property sold, and all judgments or other orders made in the High Courts of Judicature shall have the like effect as if made in the High Courts of Judicature.

Unclaimed Funds or Dividends.

132. (1) Where the trustee, under any Act or trust, has received or is entitled to receive any unclaimed dividend which has remained unclaimed for more than six months, or where, after making a final dividend, such trustee shall have in his hands or under his control any unclaimed or such dividend, he shall forthwith pay the same to the bankruptcy trustee account of the Court. The trustee or bank at which the account is kept shall furnish him with a certificate of receipt of the

(2) The Court, with the concurrence of the Governor General in Council, may, from time to time, appoint a person to collect and get in all such unclaimed or undistributed funds or dividends, and for the purposes of this section the Court shall have, and at the instance of the person so appointed or of its own motion may exercise, all the powers conferred by this Act with respect to the discovery and realization of the property of a debtor, and the provisions of Part I of this Act with respect thereto shall, with any necessary modifications, apply to proceedings under this section.

(3) The provisions of this section shall not, except as expressly declared herein, deprive any person of any larger or other right or remedy to which he may be entitled against such trustee.

(4) Any person claiming to be entitled to any money paid in to the bankruptcy trustee's account pursuant to this section may apply to the Court for an order for payment to him of the same, and the Court, if satisfied that the person claiming is entitled, shall make an order for the payment to such person of the sum due.

(5) The Court may, with the previous sanction of the Governor General in Council, at any time after the passing of this Act, put the account referred to in this Act as the bankruptcy trustee's account.

Interpretation.

133. (1) In this Act, unless the context otherwise requires,—

"Province" means the territories under the administration of a Local Government;

"High Court of the province" means the highest Civil Court of appeal for the province;

"the Court" means the Court having jurisdiction in bankruptcy under this Act;

"affidavit" includes declarations under any legislative enactment, affirmations and attestations on honour;

"available act of bankruptcy" means any act of bankruptcy available for a bankruptcy petition at the date of the presentation of the petition on which the receiving order is made;

"debt provable in bankruptcy" or "provable debt" includes any debt or liability by this Act made provable in bankruptcy;

"general rules" include forms;

"oath" includes affirmation, declaration under any legislative enactment and attestation on honour;

"ordinary resolution" means a resolution decided by a majority in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution;

"prescribed" means prescribed by general rules within the meaning of this Act;

"property" includes money, goods, things in action, land and every description of property, whether moveable or immovable, choses in action, claims and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as above defined;

"resolution" means ordinary resolution;

"secured creditor" means a person holding a mortgage, charge or lien on the property of the debtor, or any part thereof, or a secured creditor of a debt due to him from the debtor;

"trustee" means a trustee under any Act or trust, and includes an officer charged with the execution of a will or other instrument;

"special resolution" means a resolution decided by a majority in number and three-fourths in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution;

"trustee" means a trustee in bankruptcy of a debtor's estate, or the official receiver where no other person is appointed trustee of the estate.

(2) The schedules to this Act shall be construed and have effect as part of this Act.

Repeal.

134. (1) The enactments specified in the third schedule hereto, in so far as they relate to the administration of this Act, shall be repealed to the extent mentioned in that schedule.

(2) The repeal effected by this Act shall not affect

(a) anything done or suffered before the commencement of this Act under any enactment repealed by this Act; nor

(b) any right or privilege acquired, or duty imposed, or liability or disqualification incurred, under any enactment so repealed; nor

(c) any fine, forfeiture or other punishment incurred or to be incurred in respect of any offence committed

The Indian Bankruptcy Bill, 1855.
(*The First Schedule.—Meetings of Creditors.—The Second Schedule.—Proof of debts.*)

- 3) the institution or continuance of any proceeding or other remedy, whether under any enactment repealed or otherwise, for ascertaining any such liability or disqualification or enforcing or recovering any such fine, forfeiture or punishment as aforesaid.
- 5) Notwithstanding the repeal effected by this Act, all readings in any Court or before a Judge of any Court or any of the enactments repealed herein at the commencement of this Act shall, except so far as any provision of this Act is expressly applied to pending proceedings, continue, and those enactments shall, except as aforesaid, apply thereto, as if this Act had not passed.
- 6) The person for the time being holding the office of official receiver for any of the High Courts of Judicature attached to the Court of the Receiver of Bengal shall, for the purposes of any such proceedings before that or any Judge thereof, be deemed to have been appointed an assignee under the said Act.

THE FIRST SCHEDULE.

(See section 14.)

MEETINGS OF CREDITORS.

1. The first meeting of creditors shall be summoned for any not later than fourteen days after the date of the receiving order, unless the Court for any special reasons it expedient that the meeting be summoned for a longer day.
2. The official receiver shall summon the meeting by giving not less than seven days' notice of the time and place thereof in the prescribed manner.
3. The official receiver shall also, as soon as practicable, send to each creditor mentioned in the debtor's statement of affairs a notice of the time and place of the first meeting of creditors, accompanied by a summary of the statement of affairs, including the causes of his failure, and any observations thereon which the official receiver may think fit to make; but the proceedings at the first meeting shall not be invalidated by reason of any such notice or summary not having been sent or received before the meeting.
4. The meeting shall be held at such place as is in the opinion of the official receiver most convenient for the majority of the creditors.
5. The official receiver or the trustee may at any time summon a meeting of creditors, and shall do so whenever so directed by the Court, or so requested in writing by one-fourth in value of the creditors.
6. Meetings subsequent to the first meeting shall be summoned by sending notice of the time and place thereof to each creditor at the address given in his proof, or if he is not proved at the address given in the debtor's statement of affairs, or at such other address as may be known to the person summoning the meeting.
7. The official receiver, or some person nominated by him, shall be the chairman at every meeting. Provided that, if the Court so directs, the chairman at any meeting subsequent to the first shall be such person as the meeting may resolve to appoint.
8. A person shall not be entitled to vote as a creditor at the first or any other meeting of creditors unless he has duly proved a debt provable in bankruptcy to be due to him from the debtor, and the proof has been duly allowed before the time appointed for the meeting.
9. A creditor shall not vote at any such meeting in respect of any unliquidated or contingent debt, or debt the value of which is not ascertained.
10. For the purpose of voting a creditor shall, unless he voluntarily gives security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him, after deducting the value of his security. If he votes in respect of his whole debt, he shall be deemed to have unattended his security, and the Court on application shall order that the creditor to value the security has arisen from inadvertence.
11. A creditor shall not vote in respect of any debt or interest secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the debt due to him thereon of every person who is liable thereon as a debt due to the debtor and against whom a receiving order has not been made, as a security in his hands, and to estimate the value thereof and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.
12. It shall be competent to the trustee or to the official receiver, within twenty-eight days after a proof estimating the value of a security as aforesaid has been made use of in

the security for the benefit of the creditor, generally on payment of the value so estimated, with an addition thereto of twenty per centum: Provided that, where a creditor has put a value on such security, he may at any time before he has been required to give up such security as aforesaid correct such valuation by a new proof, and deduct such new value from his debt, but in that case such addition of twenty per centum shall not be made if the trustee requires the security to be given up.

13. If a receiving order is made against one partner of a firm, any creditor to whom that partner is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled to vote thereat.

14. The chairman of a meeting shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the Court. If he is in doubt whether the proof of a creditor should be admitted or rejected, he shall mark the proof as objected to and shall allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

15. A creditor may vote either in person or by proxy.

16. Every instrument of proxy shall be in the prescribed form, and shall be issued by the official receiver, or, after the appointment of a trustee, by the trustee, and every instrument therein shall be in the handwriting of the person giving the proxy.

17. A creditor may give a general proxy to his manager or clerk, or any other person in his regular employment. In such case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor.

18. A creditor may give a special proxy to any person to vote at any specified meeting or a tournament thereof, for or against any specific resolution or for or against any specified person as trustee, or member of a committee of inspection.

19. A proxy shall not be used unless it is deposited with the official receiver or trustee before the meeting at which it is to be used.

20. Where it appears to the satisfaction of the Court that any solicitation has been used by or on behalf of a trustee or receiver in obtaining proxies, or in procuring the trusteeship or receivership, except by the direction of a meeting of creditors, the Court shall have power, if it think fit, to order that no remuneration shall be allowed to the person by whom or on whose behalf such solicitation may have been exercised, notwithstanding any resolution of the committee of inspection or of the creditors to the contrary.

21. A creditor may appoint the official receiver of the debtor's estate to act in manner prescribed as his general or special proxy.

22. The chairman of a meeting may, with the consent of the meeting, adjourn the meeting from time to time, and from place to place.

23. A meeting shall not be competent to act for any purpose, except the election of a chairman, the proving of debts and the adjournment of the meeting, unless there are present, or represented thereat, at least three creditors, or all the creditors, if the number does not exceed three.

24. If within half an hour from the time appointed for the meeting a quorum of creditors is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than a week or more than twenty-one days.

25. The chairman of every meeting shall cause minutes of the proceedings at the meeting to be taken up and fairly entered in a book kept for that purpose, and the minutes shall be signed by him or by the chairman of the next ensuing meeting.

26. No person acting either under a general or special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer in a position to receive any remuneration out of the estate of the debtor otherwise than as a creditor entitled with the other creditors at the meeting. Provided that, where any person holds special proxies to vote for the appointment of himself as trustee, he may use the said proxies and vote accordingly.

THE SECOND SCHEDULE.

(See section 15.)

PROOF OF DEBTS.

Proof in ordinary cases.

1. Every creditor shall prove his debt as soon as may be after the making of a receiving order.
2. A debt may be proved by delivering or sending through the post in a prepaid letter to the official receiver,

*The Indian Bankruptcy Bill, 1885.
(The Third Schedule.—Enactments repealed.)*

or, if a trustee has been appointed, to the trustee, an affidavit verifying the debt.

3. The affidavit may be made by the creditor himself or by some person authorised by or on behalf of the creditor. If made by a person so authorised, it shall state his authority and means of knowledge.

4. The affidavit shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers, if any, by which the same can be substantiated. The official receiver or trustee may at any time call for the production of the vouchers.

5. The affidavit shall state whether the creditor is or is not a secured creditor.

6. A creditor shall bear the cost of proving his debt, unless the Court otherwise specially orders.

7. Every creditor who has lodged a proof shall be entitled to see and examine the proofs of other creditors before the first meeting, and at all reasonable times.

8. A creditor proving his debt shall deduct therefrom all trade discounts, but he shall not be compelled to deduct any discount, not exceeding five per centum on the net amount of his claim, which he may have agreed to allow for payment in cash.

Proof by secured Creditors.

9. If a secured creditor realizes his security, he may prove for the balance due to him, after deducting the net amount realized.

10. If a secured creditor surrenders his security to the official receiver or trustee for the general benefit of the creditors, he may prove for his whole debt.

11. If a secured creditor does not either realize or surrender his security, he shall, before ranking for dividend, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

12. (a) Where a security is so valued the trustee may at any time redeem it on payment to the creditor of the assessed value.

(b) If the trustee is dissatisfied with the value at which a security is assessed, he may require that the property comprised in any security so valued be offered for sale at such time and on such terms and conditions as may be agreed on between the creditor and the trustee, or, in default of such agreement, the Court may direct. If the sale be by public auction, the creditor or the trustee on behalf of the estate, may bid or purchase.

(c) Provided that the creditor may at any time by notice in writing, require the trustee to declare whether he will or will not exercise his power of redeeming the security or requiring it to be sold, and if the trustee does not, within six months after receiving notice, signify an answer to the creditor his declaration may raise the power, he shall not be entitled to exercise it, and the equity of redemption, or any other interest in the property comprised in the security which is vested in the trustee, shall vest in the creditor, and the amount of his debt shall be reduced by the amount at which the security has been valued.

13. Where a security has been valued by a creditor at any time and the valuation and proof showing to the satisfaction of the trustee and the Court, that the value and/or of the security has been increased, or that the security has been taken on a new valuation, or that the security has been taken on a new valuation, or that the security has been taken on a new valuation, or that the security has been taken on a new valuation, shall be made at the cost of the creditor, and upon such terms as the Court shall order, and the trustee shall allow the amendment without application to the Court.

14. Where a valuation has been amended in accordance with the foregoing, the creditor shall forthwith repay any surplus dividend which he may have received in excess of that to which he would have been entitled on the amended valuation, or, as the case may be, shall be entitled to be paid out of any money for the time being available for dividend any dividend or share of dividend which he may have failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment.

15. If a creditor after having valued his security subsequently realizes it, or if it is realized under the provisions of Rule 12, the net amount realized shall be substituted for the amount of any valuation previously made by the creditor, and shall be treated in all respects as an amended valuation made by the creditor.

16. If a secured creditor does not comply with the foregoing rules, he shall be excluded from all share in any dividend.

17. Subject to the provisions of Rule 12, a creditor shall in no case receive more than sixteen annas in the rupee and interest as provided by law.

Proof in respect of Distinct Contracts.

18. If a debtor was at the date of the receiving order liable in respect of distinct contracts as a member of two or more distinct firms, or as a sole contractor, and also as member of a firm, the circumstance that the firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of the contracts against the properties respectively liable on the contracts.

Periodical Payments.

19. When any rent or other payment falls due at stated periods, and the receiving order is made at any time other than one of those periods, the person entitled to the rent or payment may prove for a proportionate part thereof up to the date of the order as if the rent or payment grew due from day to day.

Interest.

20. On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the receiving order and payable in bankruptcy, the creditor may prove for interest at a rate not exceeding four per centum per annum to the date of the order from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and, if payable otherwise, then from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment.

Debt payable at a future time.

21. A creditor may prove for a debt not payable when the debtor committed an act of bankruptcy as if it were payable presently, and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of five per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms on which it was contracted.

Admission or Rejection of Proofs.

22. The trustee shall examine every proof and be grounded of the debt, and in writing admit or reject it in whole or in part, or require further evidence in support of it. If he rejects a proof, he shall state in writing to the creditor the grounds of the rejection.

23. If the trustee thinks that a proof has been improperly admitted, the Court may, on the application of the trustee after notice to the creditor who made the proof, expunge the proof or reduce its amount.

24. If a creditor is dissatisfied with the decision of the trustee in respect of a proof, the Court may, on the application of the creditor, reverse or vary the decision.

25. The Court may also expunge or reduce a proof upon the application of a creditor if the trustee declines to interfere in the matter or, in the case of a composition or scheme, upon the application of the debtor.

26. For the purpose of any of his duties in relation to proofs, the trustee may administer oaths and take affidavits.

27. The official receiver, before the appointment of a trustee, shall have and the powers of a trustee with respect to the examination, admission and rejection of proofs, and any act or decision of his in relation thereto shall be subject to the like appeal.

THE THIRD SCHEDULE.

(See section 134.)

ENACTMENTS REPEALED.

A—Statute repealed.

Year and Chapter	Title	Extent of repeal.
11 & 12 Vict. c. 21.	An Act to consolidate and amend the Laws relating to Insolvent Debtors in India	So much as has not been repealed.

B—Acts repealed.

Number and year	Subject or title	Extent of repeal.
XXVII of 1841.	An Act for appropriating the unclaimed Dividends on Insolvent Estates.	So much as has not been repealed.
XVII of 1875.	The Burma Courts Act, 1875.	Section 66.

Drafts referred to in paragraph 5 of despatch to Her Majesty's Secretary of State, No. 32, dated 12th June, 1885.

DRAFT ACT OF PARLIAMENT NO. 1.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Indian Bankruptcy Act, 1885.

Short title. (Extension of Powers) Act, 1885.

2. This Act shall have the same extent as the Bankruptcy Act, 1883.

Extent.

3. If the Governor General of India in Council by

Operation beyond India of Act applying English bankruptcy law to India, any law passed at a meeting for the purpose of making laws and regulations in accordance with the provisions of the Indian Councils Act, 1861, as amended by subsequent Acts, apply or adapt any of the provisions of the Bankruptcy Act, 1883, or of any Act amending, supplementing or substituted for the same, to any of the following cases, namely:—

(a) the case of any debtor who at the time when proceedings in bankruptcy are commenced by or against him is in prison in British India under a decree of a Civil Court for non-payment of money, or within a year before that time has ordinarily resided or had a dwelling-house or place of business in British India; or

(b) the case of any deceased debtor who resided or carried on business in British India for the greater part of the six months immediately before his decease; the provisions so applied or adapted shall, except so far as their local operation is expressly limited by that law, have effect beyond the limits of British India as if they had been enacted by this Act, and shall be taken notice of by all Courts of Justice in the same manner as if they were the provisions of a public Act of Parliament.

4. Where under any such law a receiving order or adjudication of bankruptcy is made against a debtor, or an order is made for the administration in bankruptcy of the estate of a deceased person who dies insolvent, the provisions of the Bankruptcy Act, 1883, specified in the schedule to this Act shall apply to such parts of the debtor's property or deceased debtor's estate as may be situated in England as if the order or adjudication had been made in England.

5. The certificate of appointment of a trustee issued under any such law shall, for the purpose of effect of certificate of appointment of trustee, any law in force in any part of the British dominions beyond the limits of British India requiring registration, enrolment or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled and recorded accordingly.

THE SCHEDULE.

PROVISIONS OF THE BANKRUPTCY ACT, 1883, REFERRED TO IN SECTION 4.

Section 45.
Section 46.
Section 50, sub-sections (2) and (4).
Section 42.
Section 55.
Section 56, sub-section (5).
Section 70, sub-section (2), except in so far as it refers to the Board of Trade.

DRAFT ACT OF PARLIAMENT NO. II.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Indian Bankruptcy Act, 1885.

Short title.

2. (1) The Governor General of India in Council shall have power, subject to the provisions contained in the Indian Councils Act, 1861, as amended by subsequent Acts, at meetings for the purpose of making laws and regulations, to make laws applying or adapting any of the provisions of the Bankruptcy Act, 1883, or any other Act amending, supplementing or passed in substitution for the same.—

(a) to the case of any debtor who at the time when proceedings in bankruptcy are commenced by

or against him is in prison in British India under an order of a Civil Court for non-payment of money, or within a year before that time has ordinarily resided or had a dwelling-house or place of business in British India; or

(b) to the case of any deceased debtor who resided or carried on business in British India for the greater part of the six months immediately prior to his decease.

(2) Every such law shall have effect beyond the limits of British India to the extent and in the manner by this Act provided, it shall be taken notice of by all Courts of Justice in the same manner as if it were a public Act of Parliament, and its operation shall not be affected by the repeal or amendment of the Bankruptcy Act, 1883, or of any other Act as aforesaid.

3. (1) The following orders and proceedings under any such law shall have, as nearly as may be, the same effect throughout the British dominions as in British India, that is to say:—

(a) a receiving order and the rescission of the same;

(b) the appointment of an official receiver as interim receiver, and the appointment of a special manager of the debtor's estate or business;

(c) the acceptance and approval of a composition or scheme, and the annulment of a composition or scheme;

(d) an adjudication of bankruptcy, the annulment of such an adjudication and any order passed thereon vesting the property of the bankrupt in him or in any other person;

(e) the appointment, removal and release of a trustee in a bankruptcy or under or in pursuance of a composition or scheme, and the revocation of any such release;

(f) an order of discharge and the revocation of any such order;

(g) the decision of a Court on any question of law or fact; and

(h) an order for the administration in bankruptcy of a deceased person's estate.

(2) The provisions of any such law defining the status, powers, rights and duties of an official receiver, an interim receiver, a special manager or a trustee in bankruptcy, or under or in pursuance of a composition or scheme, or prescribing any rule of evidence, shall have, as nearly as may be, the same force throughout the British dominions as in British India.

(3) Provided that when under any such law a receiving order has been made against a person or he has been adjudged bankrupt, or an order has been made for the administration of the estate of a deceased person who dies insolvent, sections 45, 46, sub-sections (2) and (4) of section 54, section 52, section 55, sub-section (5) of section 56, and (except in so far as it refers to the Board of Trade), sub-section (2) of section 70 of the Bankruptcy Act, 1883, shall, so far as they are applicable, apply in respect of such parts of his property or estate as may be situated in England in the same manner as if the order or adjudication had been made under that Act.

4. The certificate of appointment of a trustee issued under any such law shall, for the purpose of effect of certificate of appointment of trustee, any law in force in any part of the British dominions beyond the limits of British India requiring registration, enrolment or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled and recorded accordingly.

5. No action for a dividend shall lie against a trustee under any such law in any Court in the British dominions.

6. Any Court in the British dominions beyond the limits of British India in which proceedings are pending against a debtor may, on proof that a bankruptcy petition has been presented by or against the debtor under any such law, either stay the proceedings or allow them to continue on such terms as it may think just.

* The provisions of the Bankruptcy Act, 1883, mentioned in this provision either will not be re-produced in the Indian Act or will be re-produced in such a form that they would be unsuitable for application to property in England.

From the Right Hon'ble Her Majesty's Secretary of State for India, to His Excellency the Right Hon'ble the Governor General of India in Council,—(No. 4), dated 19th November, 1885).

I HAVE considered in Council the letter of Your Excellency in Council No. 39, dated 12th of June last, forwarding, with connected papers, a copy of the proposed Indian Bankruptcy Bill and of two alternative drafts prepared with a view to obtaining the Act of Parliament necessary for carrying out your proposals with respect to that Bill.

2. I have thought it right to consult the Board of Trade on the subject, and I now forward, for the information of your Lordship in Council, a copy of the correspondence noted in the margin which has taken place with that office.

3. As regards the necessary Parliamentary legislation, I think there may possibly be some difficulty in obtaining, in the first instance, an Act of Parliament such as the Draft No. 1 conferring upon the Governor General's Council the large powers required. That difficulty, however, would probably be much diminished if the scope of the Act of Parliament were extended so as to include the Colonial Governments in the manner suggested by the Board of Trade. The precise shape, however, which legislation in this country should assume cannot be finally determined pending the decision on the proposal of the Board of Trade, respecting which it will be seen that the Board is in communication with the Colonial Office.

4. Your Lordship in Council is desirous of proceeding with the Bill during the ensuing sittings in Calcutta and passing it through the stages at which discussion is likely to arise before the return of the Government to Simla next year, the final stages of the Bill being deferred until the requisite Parliamentary legislation is completed. To this course I see no objection. The bill's cons will be calculated to effect the reforms which experience has shown to be necessary, and I have no doubt that in passing it through the Council you will derive much assistance from the criticisms which you have invited upon it from the judicial authorities and commercial bodies who are especially familiar with the subject.

From J. A. GODLEY, Esq., Permanent Under-Secretary of State for India, to Secretary, Board of Trade,—(No. 1234—b, d. (d 6th August, 1885).

I AM directed by the Secretary of State for India in Council to transmit, for the information of the Board of Trade, a copy of a despatch received from the Government of India, dated the 12th of June last, with enclosures, namely, (1) a copy of a Bill which it is proposed to introduce in the Legislative Council of the Governor General of India for the purpose of adapting the English Bankruptcy Act of 1883 to Indian circumstances; (2) a copy of the Statement of Objects and Reasons appended to that Bill; and (3) copies of two Draft Bills, one of which (preferably the Draft marked No. 1, it is suggested) should be passed as an Act of Parliament, entitled the "Indian Bankruptcy (Extension of Powers) Act, 1885."

The present law relating to insolvents in India, as it is to be found in the Statute 11 & 12 Vic. cap. 21, is very defective, and frequent proposals for its amendment have been made from time to time. The subject has recently been again very carefully considered, with the result that the Governor General in Council now proposes that an Act of the Indian Legislature should be passed adapting the English Bankruptcy Act of 1883 to India with the necessary modifications, and that in order to give full effect to the provisions of that measure an Act of Parliament should, in the first instance, be obtained on the terms of Draft No. 1 conferring upon the Council of the Governor General the extended powers which are necessary to give effect beyond the limits of British India to such of the provisions of the proposed Indian Bankruptcy Act as ought to have operation beyond those limits.

I am to say that in replying the attention of the Board of Trade to these proposed measures, and to paragraphs 4 to 9 of the despatch from the Governor General in Council, Lord Randolph Churchill does not suggest that the Board should undertake the labour of considering the details of the Bill to be introduced in the Council in India, except so far as may be necessary with reference to the question of the provisions of that Bill having effect beyond the limits of British India, his Lordship's object being to elicit the opinion of the Board as to the proposal which, as it is presently advised, he is inclined to approve, that an Act of Parliament based upon Draft No. 1 should be applied for.

From R. GIFFEN, Esq., Secretary, Board of Trade, to Under-Secretary of State for India,—(No. J. & P. 1333—Sa, dated 19th October, 1885).

I AM directed by the Board of Trade to acknowledge the receipt of your letter of 6th August last, transmitting, by direction of the Secretary of State for India in Council, copy of a despatch, with its enclosures, from the Government of India, with reference to a proposed Act to introduce a Bill in the Legislative Council of the Governor General for the purpose of adapting the English Bankruptcy Act of 1883 to Indian circumstances.

The Board observe that Lord Randolph Churchill desires to be informed of their opinion as to the suggestion that an Act of Parliament should be obtained conferring upon the Governor General in Council the extended powers which appear to be necessary in order to give effect in other portions of Her Majesty's dominions to such of the provisions of the proposed Indian Bankruptcy Act as ought to have operation beyond the limits of British India. With reference to this point I am to report that you will be good enough to inform His Lordship that the Board of Trade see no objection to the proposed draft Bill No. 1 which accompanied your letter and which has been framed with this object.

The consideration of this matter has, however, given rise to a further question as to the desirability of obtaining a general enactment which should enable the Courts of the United Kingdom or any of the colonies or possessions to give effect to the provisions of the bankruptcy laws of any other part of the British Empire, as is now the case under the provisions of sections 117-119 of the English Act with regard to the different portions of the United Kingdom. Another point which appears also to call for attention in putting forward any suggestion for a general enactment such as that referred to is the advisability of obtaining power to extend, if necessary, the provisions of section 14 of the Bankruptcy Act of 1883 with a view to enabling the Courts having bankruptcy jurisdiction in this country to suspend proceedings in cases occurring where, in the opinion of such Courts, India or any other portion of the British Empire would more properly be the place for such proceedings, and also to confer upon Indian and Colonial Courts the exercise of similar power where it is obvious that the proceedings should be held in any other portion of Her Majesty's dominions.

These, however, are points upon which the Board of Trade are unable to express any decided opinion without a reference to, and consultation with, the Colonial Office, more especially as a manifest difficulty arises in connection with the self-governing colonies. The Board have, therefore, caused a copy of your letter and its enclosures, and also a copy of this communication, to be forwarded to the Secretary of State for the Colonies, in order to ascertain whether it would be considered expedient by the Colonial Office that a Bill should be brought before Parliament with a view to obtaining uniformity of procedure in all the Crown colonies in the matter of

proceedings similar in nature to those which the draft Bill No. 1 which accompanied your letter is designed to cover as regards Indian cases, or to content in a more general Bill with that object which would include India as well as the colonies. The Board have also suggested to the Secretary of State the desirability of recommending the subject to the authorities of the self-governing colonies in the event of the course proposed being found practicable.

As soon as a reply is received from the Colonial Office the Board will cause a further communication to be addressed to you upon the matter.

It may of course prove undesirable to delay the Bill relating to India in order to include the colonies, but it appears desirable in the first instance to obtain the opinion of the Colonial Office on the question and to ascertain whether the proposal to include them will involve delay.

Extract from a Demi-official letter from S. DIXON, Esq., to the Hon'ble MR. C. P. ILBERT,
—(dated Calcutta, the 23rd July, 1885.)

Bankruptcy Bill.

I HAVE been acting as attorney for the Official Assignee of the Court for Relief of Insolvent debtors at Calcutta for a period of nearly twenty years, and have necessarily had considerable experience on the working of the existing Act. I have lately seen in the *Times of India* a copy of the draft Objects and Reasons accompanying the draft Bill now under consideration, and observe that it runs closely on the lines of the Bankruptcy Act, 1883, with which I am to great extent familiar, and one of the provisions of which, namely, as to proof of debts, I consider, already apply to India, under section 10 of the existing Insolvency Act, 11 & 12 Vic. c. 21—

<i>Grain v. Choudh. Coomrao</i>	136.
<i>Re. Sub Chandra Mallick</i>	S. B. L. R. 391.
<i>Re. Park Pittar</i>	8 " 118.
<i>Re. Howard Brothers</i>	13 " (App.) 9.
<i>Re. F. Andea</i>	12 Cal. Rep. 165.

And it appears to me that an Act framed on the Plan of the Act, 1883, will be a great improvement on the existing Act, and will relieve the Court of a great deal of detail business which can as well be done (if not better) by the Official Receiver.

Some of the provisions of the Act of 1883 are, however, in my opinion, not suited to this country, such as the meeting of creditors under section 15, and the appointment of a private trustee under section 21, of the Act of 1883.

I should much like to peruse the draft Bill, and, if you see no objection thereto, to be furnished with a copy thereof and of the draft Objects and Reasons.

It has always been a matter of surprise to me that no Act analogous to the Bills of Sale Acts, 1854 and 1866 (re-enacted with alterations by the Bills of Sale Act, 1878—41 & 42 Vic. c. 31), has been passed in India. It is a matter of every day experience to find the whole of the stock in-trade of an insolvent assigned to some bank, or other individual creditor, who, if he gets wind of the impending proceedings, takes possession before a vesting order can be made by the Court, and so sweeps off the whole of the assets.

Registration is at present voluntary only, but even if the parties to the bill of sale agreed to register, the public would be none the wiser, as Book I of the register, which is confined to transfers of immovable property, is the only register which the public are entitled to search.

I drew the attention of my friend Mr. Pitt Kennedy, when he was in the Legislative Council, and also of Mr. Wm. Stokes, to this, but nothing has yet been done to remove this evil.

I venture to bring this matter to your notice now, as such a Bill as is required would be a valuable adjunct to the proposed new Bankruptcy Law.

From Chief Secretary to Government, Madras, to Secretary to Government of India,
Legislative Department,—(No. 2551, dated 22nd September, 1885).

WITH reference to your letter of the 17th June last No. 1039, I am directed to forward copy of the opinions of the Hon'ble Mr. Justice Hanbury, the Advocate General, the Chamber of Commerce and of certain selected officers on the draft Bill to amend the Law of Bankruptcy and Insolvency in British India, and to state that His Excellency the Governor in Council approves generally of the provisions of the Bill.

2. With reference to the remarks contained in the minute of Mr. Justice Hanbury the views of the other Hon'ble Judges will be requested upon the point raised by him, and any remarks which they may offer will be communicated in due course.

From the Government Solicitor, Madras, to Chief Secretary to Government, Madras,—(No. 261, dated 27th July, 1885).

ABSTRACT.—Forwarding the following opinion of the Advocate General, dated 27th July 1885—

Opinion.

WITH reference to the order of Government, Judicial department, dated the 30th June, 1885, No. 1722, I have the honour to make the following observations upon the Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India.

2. From sections 5 and 7 read in conjunction with section 82, it appears that the provisions of the Bill are not applicable to up-country traders not having a place of business in one of the towns named in section 82. Now, as there must be many instances of Gomers, European and Native, so circumstanced for whom in the event of their failure the machinery of this Bill would be more fitted than that of the Procedure Code, I would suggest that an exceptional jurisdiction should be given to the High Court in such cases. The jurisdiction might be limited by reference to the amount of the debts and to the proportion of the creditors not residing within the jurisdiction of the Court to which the debtor would ordinarily be subject.

3. With a view to the common case of the wealthy member of a firm keeping in the back-ground and allowing a comparative pauper, in whose name the business has been carried on, to file his petition and schedule, I would suggest that the debtor be expressly required to disclose the name of his partner, and that concealment of the existence of partners should be made void. This disclosure is required in the case which section 102 is designed to serve. Where proceedings are taken in the name of a firm under that section, I apprehend that only the persons named as members of the firm could obtain their discharge. All who desire to obtain their discharge as members of a firm would thus, in their own interest, take care that their names were disclosed. It is not clear, therefore, why, for the case to which section 102 applies, provision for the disclosure of partners' names should be made, and why it should not be extended to all cases indifferently.

4. Unless I have misunderstood the Bill, it seems that the secured creditor may, notwithstanding that the property was vested in a trustee under the Act, still proceed to realize his security. If this is so, I would ask why he is not protected against the operation of section 31.

5. I would suggest, too, that the phrase "secured creditor," which is used in section 8 (2), in section 33 and in the rules should also be used in section 39.

(Signed) H. H. SHEPARD,
Acting Advocate-General.

From R. S. BENSON, Esq., Acting Registrar, High Court, Madras, to Chief Secretary to Government, Madras,—(No. 2136, dated 31st July, 1885).

WITH reference to G. O. dated the 29th June, 1885, No. 1722, Judicial, forwarding, for the opinion of the Hon'ble the Judges, copies of the draft Bill to amend the Law of Bankruptcy and Insolvency in British India with draft statement of Objects and Reasons, I am directed to state that Messrs. Hutcheson and Parker, J.J., have no observations to offer on the Bill.

2. Any minutes that may be recorded by the Hon'ble the Officiating Chief Justice and the other Judges will be forwarded hereafter.

From the Hon'ble T. RAMA ROW, to Chief Secretary to Government, Madras,—(dated 1st August, 1885).

WITH reference to the order of Government dated 30th June 1885, No. 1722, Judicial, I have the honour to submit the following memorandum containing my opinion on the provisions of the Bill to amend the Law of Indian Bankruptcy and Insolvency.

2. It is a well-known fact that the present insolvency law of the Presidency towns, namely, 11 & 12 Vic., cap. 21, is very cumbersome and defective, and I am glad to find that the bill in question has been very properly prepared in conformity with the latest English Statute, viz. 17 Vic., cap. 52, inasmuch as the various decisions of the English Courts on that Statute can serve as a safe guide to the construction of doubtful and difficult parts of the Bill.

3. In section 88 of the Bill provision is made for the delegation to a Judge of the Presidency Small Cause Court by the High Court of its insolvency jurisdiction within certain limits. This, I think, was very much needed, and will enable the High Court to transfer to the Court of Small Causes all petty business in the matters of insolvency. Further, the Small Cause Court at Madras did formerly possess this insolvency jurisdiction, and the present Bill simply restores this power of which it has been recently deprived by legislation.

4. Having made these general observations, I now proceed to make a few remarks on certain sections of the Bill having in view the peculiar circumstances and status of the people in India.

5. *Section 5 (1) a.*—A creditor under this cause cannot present a bankruptcy petition against a debtor, unless the debt due to him amounts to Rs. 500. It is true that the English Statute, 16 & 17 Vic., cap. 52, section 6, contains similar provision, and fixes the amount to £50, but considering the nature and extent of dealings among Hindus and the provisions in the Bill restoring the insolvency jurisdiction to the Presidency Small Cause Courts, I think the amount may be reduced to Rs. 250.

Section 15, subsection (1)—All the penal clauses in the Bill appear in Part VIII. I therefore suggest that the penal clauses in the latter part of the subsection may conveniently be inserted in Part VIII.

Section 27, subsection (3), clause (a).—I believe that the present Bill is intended to include within its scope the cases of insolvents who are not traders. If so, I think it is very desirable that some distinction should be made between these two classes of people in the matter of production of books of account, &c.

As a general rule, very few people who are not traders keep any account of their income and expenditure, and it will be a very great hardship to refuse an order of discharge to such people, simply because they failed to keep proper books of account showing their financial position within three years preceding their bankruptcy.

Section 31, subsection (1), clauses (b) & (c).—The phraseology in these clauses is aimed too severely in the corresponding section of the English statute, only altering £50 to Rs. 500. Considering the comparative cheapness of labour and wages of servants in India, I think that, in the distribution of the property of a bankrupt's estate under this head, should be limited to Rs. 200 and not more.

Section 33, subsection (2)—No doubt the tools (if any) of a bankrupt's trade and the new and wearing apparel and bedding of himself, his wife and children, should be exempted from the division of his property amongst his creditors; but the only question here is to what extent the exemption should be limited. I think the sum of Rs. 200 is a reasonable one, and it may be reduced to Rs. 50.

Section 35, subsection (1)—I do not think that a trustee should be allowed to retain any sum exceeding Rs. 250 with a special authority from the Court. This subsection, as it now stands, fixes once for all the rate of interest payable by the trustee respectively on the excess amount retained by him. I think it would be better to leave to the discretion of the Court to settle the rate of interest in each case, but fixing the maximum rate only on the Bill.

Section 117—This section renders a married woman subject to this Act in respect of her separate property. I do not find any definition of "separate property" in the Bill. The words "separate property," when applied to an English woman, so well understood, but sections dealing with will arrange the manner we begin to apply the same to Hindu women. No doubt, section 2 of Act III of 1871 contains a definition of the words "separate property," but that enactment being inapplicable whatever to the cases of married women professing Hindu or Muhammadan faith, &c. Further, the said definition does not include all kinds of stridhanam property of a Hindu married woman. There are several kinds of stridhanam property under Hindu law, and a Hindu woman does not possess the same powers of disposal, alienation and enjoyment over all of them. Again, the Hindu law, as administered in Bengal and Bombay on this subject, most unaccountably differs on some very essential points from the law of this Presidency. I therefore think this section must be altered to meet all these difficulties.

Section 117—This section does not allow vakils to appear for bankrupts before the High Courts in the exercise of their insolvency jurisdiction. In Madras, vakils have been allowed to appear and act on behalf of all suitors in the High Court in the exercise of its ordinary original civil jurisdiction, and this concession appears to have been made owing to the comparatively indigent state of circumstances of suitors, and their inability to employ the double agency of a solicitor and barrister. It, therefore, appears to me nothing but just and charitable to permit bankrupts to employ vakils on their behalf, instead of compelling them to resort to the very expensive process of employing a double agency to defend their cause. I therefore propose that this section may be altered as follows:—"Nothing in this Act, or in any transfer of this jurisdiction effected thereby, shall take away or affect any right of audience that any person may have had at the commencement of this Act, and all solicitors or other persons, who have the right of audience before the High Courts of Judicature in the exercise of their ordinary original civil jurisdiction, shall have the like right of audience in bankruptcy matters in the High Courts of Judicature aforesaid."

In Part VIII no provision is made for the punishment of a debtor who does not disclose the names of all his partners under section 102. I think that the concealment by a debtor of the existence of partners must be rendered penal, inasmuch as it is a very common case for an affluent member of a firm to remain in the background and allow a pauper, in whose name the trade is carried on, to apply for the benefit of the Act.

From F. ROWLANDSON, Esq., Attorney-at-Law, Madras, to Chief Secretary to Government,
—(dated 3rd August, 1885).

I HAVE the honour to forward, herewith, a memorandum on the draft Bill to amend, &c., the Law of Bankruptcy and Insolvency in British India.

Memorandum.

Preliminary remarks.—As only opinions on the provisions of the Bill submitted are asked for, it is probably not intended at this stage to open for discussion the necessity or expediency of passing an Insolvent Law in India which shall apply alike to the English speculator and the Hindu Chetti. Commercial tradition in Southern India asserts that the large and wealthy body of traders known as Nattacotti Chetties had not known the sin of insolvency but for the Insolvent Act.

The past history of the relations between commercial creditors and debtors amongst them differs *toto caelo* from the cruel story of the causes which led English legislators to force upon English commerce an Act for the relief of insolvent debtors. Nor does the Native merchant recognise that necessity for the "whitewashing" of Basinghall Street which arises out of the Englishman's practical idolatry of the fetish "CREDIT."

No native, unless de-nationalised by a business connection with Europeans, gives chance the place in his transaction which every European firm accords to it.

When he gives credit against goods he sees them, when to an individual he goes into his circumstances in a way which is impossible to Englishmen.

The result is that no great crash amongst natives takes place. The wealthy man of one day has "bad luck," and his wealth goes to other, but no irrevocable ruin to either him or his creditors is worked; there is simply a change in relations. If a large trader fails in a Presidency-town, it will be found that the suffering creditors are Europeans, and this more especially where the bankrupt is himself a European. It is therefore not a certain benefit that we give the native commerce of India in offering it a Bankruptcy Law of general application, and it would perhaps be better to let the similarity of procedure which Mr. Herbert alludes to in paragraph 9 of his "Statement of Objects and Reasons" be confined to a law which shall affect only those who trade in both the places he refers to on the same lines. It is, however, to be assumed that it is settled that a Bankruptcy Act is to be passed.

As far as I can form an opinion, the Bill now submitted will work well, but I offer the following remarks upon it.

Section 4.—Is it intended that this "receiving order" should have the same force as the "vesting order" under the old Insolvent Act? It would seem so, for it stays action on the part of creditors (section 8), and renders the debtor's alienation of property invalid (section 43 (1)). It is possible under section 19 for a receiving order to be made, a debtor to be adjudged bankrupt, and his property to be vested in the (receiver or other) trustee, all in one day, but such prompt action cannot be often expected.

It is possible for a receiver to be appointed, and whilst no property of the debtor is vested in such receiver, because no adjudication order has been made, the debtor is practically powerless to deal with his assets. In some cases, as, for example, where the debtor is a hotel-keeper doing a business which should be carried on for the benefit of the creditors, this position of affairs might seriously prejudice the value of the bankrupt's assets.

The old "vesting order" which (section 7 of Indian Insolvent Act) "*by virtue of this Act*" related back to and took effect from the filing of the petition by a debtor or creditor, prevented any possible hiatus in the title to the assets, such as it would seem may arise under the provisions of the Bill.

I note contents of section 37, section 17 and of section 9 (1), but until orders by the Court are made the provisions of these sections have no effect; whereas the old "vesting order" related back by virtue of the Act.

Section 5 (1) (d) and section 7 (1). The use of the words "local limits" in these sections will be confusing, if not actually obstructive, where the High Court is concerned. A creditor who gets his debtor imprisoned in some small place will prevent his obtaining relief in bankruptcy by means of a debtor's petition; and a debtor who gets himself incarcerated in such a place by a colluding creditor will prevent his being adjudicated a bankrupt. For example, in the recent case of the insolvency of Stephenson, Nixon & Co., a firm trading at Coimbatore and Gopalspur, but the bulk of whose unsecured creditors were in the Presidency-town of Madras, the case of no partner complied with the conditions as to "local limits" of the High Court of Madras. The words may have a special meaning attached to them in the Bill, but they already have an accepted meaning in connection with the High Courts. The confusion has been successfully avoided in the Probate and Administration Act of 1881, whereas in this Bill a possible clashing of jurisdictions had to be guarded against. The Bankruptcy Act, 1883, section 6 (1) (d), has "England," where this Bill has "local limits."

Section 27 (2).—Under this provision the Court will make allocations from income similar to those made under the Insolvent Act. The following difficulties have been experienced by the Official Assignee in working such orders. In one case an insolvent drawing between Rs. 300 and 400 a month was ordered to pay Rs. 84. He did so for a few months, and then wrote to say that the moiety of his salary had been attached by creditors subsequent to his insolvency, and that he could not make any more payments. In the majority of cases the Assignee every few months has had to enforce the order by the cumbrous process of obtaining first a rule nisi and then a rule absolute against the debtor—a process which cost the estate Rs. 12 each time. To meet these contingencies I would suggest (1) that in the case of Government and quasi-Government *ex officio* the allocator do have the force of an attachment for a specified amount, probably one-third of the scheduled debts would be a proper sum to name; (2) that where the employers are private firms or individuals the creditors be compelled to name one of themselves as the trustee for the receipt and disbursement of the allocated amount and the enforcement of the order on default.

Section 39.—This provision is likely to give the trustee much trouble as it stands. The receiving or vesting order ought to override every other order of any Court which has not been given full effect to. For example, if assets have been sold under an execution order or pursuant of a decree, but the sale-proceeds have not passed out of the control of the Court ordering the execution, such sale-proceeds, subject to payment of expenses, should pass to the trustee. The throwing on the trustee the onus of proving "notice" is objectionable, and a knowledge of the bankruptcy proceedings may safely be assumed.

Section 42 (1).—This section will be found to work mischievously in practice I fear, and I would omit the words from "if the person making" down to "or suffering the same" altogether. If the intention is to give an unfair preference, such intention should be absolutely defeated without reference to any question of time. I would illustrate my meaning by the following imaginary case:—

X, Y & Co. carry on business in London, and have the reputation of wealth, X being on the board of W. an Exchange Bank having a branch in Madras. Y & Co. are a smaller firm carrying on business in the Madras Presidency and enjoying considerable credit because of their known connection with X, Y and Co., and

because they are known to have large credit with the W bank. X, Y & Co. stop payment in London, but for fifteen weeks Y & Co. in India struggle on and apparently have the W bank as much at their backs as ever. The 16th week after X, Y & Co. stopped, Y & Co. do the same, and then it proves that the W bank is more than sufficiently secured to the prejudice of the general body of creditors.

Section 88.—In Madras it will certainly prove a great benefit to delegate to a Small Cause Court Judge the disposal of a large percentage of bankruptcies.

It appears from the administrative report of the High Court (now in the press) that out of 199 applications in the year 1884-85 only 28 were from traders and over seventy returned assets "nil."

Section 116.—If the services of an efficient officer are to be secured for the post of Official Receiver it will be necessary—at all events in Madras—to make large estates that go into liquidation contribute. Liquidation should not be allowed except with permission of the Court, for the presence of bankruptcy proceedings to hold *in terrorem* over a debtor is an advantage to his creditors for which they are to pay, even if they wish to come to some private arrangement.

A clique of influential creditors will often secure the manipulation of a bankrupt estate for themselves, to the prejudice of the bankrupt himself and of the creditors outside the clique.

From R. S. BENSON, Esq., Acting Registrar, High Court, of Madras, to Chief Secretary to Government, Madras,—(No. 2265, dated 12th August, 1885).

IN continuation of my letter, dated 31st ultimo, No. 2136, I have the honour to forward a transcript of the minute recorded by Mr. Justice Hanbury on the draft Bill to amend the Law of Bankruptcy and Insolvency.

Minute.

I HAVE not had time to consider the details of the Bill, but there is one point on which I should wish to express an opinion, and that is on the powers proposed to be given under section 88 to the Judges of the Presidency Small Cause Court. I consider that the power of dealing with sundry insolvencies would be much better delegated to the Registrar or some other official of the High Court who will be constantly in the way of seeing the working of the Act by the High Court.

2. The Small Cause Court has not the machinery for discharging the duties of a Bankruptcy or Insolvency Court, and such duties would seriously interfere with the ordinary work of the Court, whereas the Registrar or other officer of the High Court would be better acquainted with the practice of the High Court under the Act, and would have no difficulty in dealing with such cases himself.

3. My experience as a Judge of the Small Cause Court of the Insolvent Jurisdiction under the Act with which that Court was for a time entrusted is against its giving it a jurisdiction in bankruptcy or insolvency.

From J. A. BOYSON, Esq., Chairman, Chamber of Commerce, Madras, to Chief Secretary to Government, Madras,—(dated 9th September, 1885).

I HAVE now the honour to acknowledge the receipt of the Proceedings of Government, Judicial Department, 30th June, No. 1722, and the accompanying proposed draft Bill of the Government of India to amend the Law of Bankruptcy and Insolvency in British India.

2. The Chamber observes that this Bill is not designed to be of general application throughout British India, but it will for the present affect only the Presidency towns and a few commercial centres in India and Burma, the number of which the Government reserves the right to increase.

3. It has been ascertained by the Chamber that the present Insolvency Law in India (11 & 12 Vic., cap. 21) came into operation on the 1st August 1838. Since that time there have been no alterations in the law in India, whilst in England the following five Acts have been passed:—

- (1) "The Bankruptcy Law Consolidation Act, 1849" (12 & 13 Vic., cap. 106)
- (2) "The Bankruptcy Act, 1854" (17 & 18 Vic., cap. 119);
- (3) The Bankruptcy Act, 1861 (24 & 25 Vic., cap. 131);
- (4) The Bankruptcy Act, 1869 (32 & 33 Vic., cap. 71), and
- (5) The Bankruptcy Act, 1883 (46 & 47 Vic., cap. 52).

4. The present Indian Bankruptcy Bill has been prepared on the lines of the English Bankruptcy Act of 1883, which, as mentioned in the Statement of Objects and Reasons, embodies the accumulated experience of the thirty-five Acts which have elapsed since the passing of the Indian Insolvency Act. As the Chamber cannot claim to have a varied experience of the working of the English Act it would be presumptuous on its part to criticize the details of the present Bill. It may suffice, therefore, to point out one or two matters which might be provided for in an Indian Insolvency Act, but of which no notice is taken in the Bill.

5. There is also, the Chamber considers, one insolvency law administered in the three Presidency towns and in Bangalore, Madras, and Bombay, and such towns as the Act may be eventually extended to, and it is suggested that Chapter XX of the Civil Procedure Code should not apply to any Court in those towns which have jurisdiction to administer the proposed new law.

6. It is one of the Chamber's demand that the High Court should have jurisdiction in insolvency matters over European British subjects within the jurisdiction of such High Court. Hitherto the Madras High Court has held that European British subjects residing in the Madras Presidency were entitled to petition the Court for the benefit of the Act. It is contemplated by the proposed Act to give jurisdiction only in cases where the debtor is in prison within the local limits of the High Court, or has, within a year before the date of the presentation of the petition, ordinarily resided or had a place of business within those limits. A European merchant up-country would, therefore, have to be arrested, and put into the civil jail before he could obtain the benefit of the Act.

7. The omission of section 116 (2) of the English Act, 1883, from the present Bill, is deprecated by the Chamber. The section is as follows:—"No Registrar, or Official Receiver, or other officer attached to any Court having jurisdiction in bankruptcy shall, during his continuance in office, either directly or indirectly, by himself, his clerk, or partner, act as solicitor in any proceedings in bankruptcy, or in any prosecution of a debtor by order of the Court, and if he does so, he shall be liable to be dismissed from office." The Chamber is assured that experience has proved in England that this is a desirable clause.

8. I am further to suggest for consideration that some provision should be made to prevent proceedings in bankruptcy against a debtor continuing in two Courts at the same time. For instance, last year, in the High Court at Madras, a debtor was adjudged on insolvent on the petition of a creditor; on the following day the debtor filed his petition in the High Court of Bombay, and insolvency proceedings have been going on ever since in both Courts. This must be an additional expense to all parties, and prove most inconvenient, for both Courts

have concurrent jurisdiction, and claim the right to wind up the affairs of the insolvent. Section 85 of the proposed Act does not meet a case of this sort, for it only deals with the transfer of proceedings from the High Court of a province to itself, or to any other Court appointed in the province under section 82.

4th. It has been objected to the Bill that it is unsuitable to Madras, because the cases of a large majority of insolvents in this city are of a petty nature, involving no intricate points of law, or any points that the existing law, with a few amendments, would not amply meet. But as the Chamber could not reasonably ask for special legislation for this Presidency, and as it approves of the great advance that it is proposed to take in the direction of a clearly defined bankruptcy law for the trading centres of the whole country, it trusts that the Bill may become law, since it seems to the Chamber to be a very complete measure.*

From W. MORGAN, Esq., Deputy Registrar, High Court of Judicature, Madras, to Acting Chief Secretary to Government, Madras,—(No. 2827, dated 24th October, 1885).

In continuation of this Court's letters, dated the 31st July and 12th August, 1885, Nos. 2136 and 2266, respectively, I am directed to forward a transcript of the minute recorded by the Officiating Chief Justice on the draft Bill to amend the law of bankruptcy and insolvency in British India, with draft Statement of Objects and Reasons.

2. I am to state that Mr Justice Muthusami Aiyar has no remarks to make.

Minute by Officiating Chief Justice, Madras.

The proposed Bill, being drafted on the lines of the last English Bankruptcy Bill, is a satisfactory and convenient guide and rule of law and practice, no doubt.

The following list will show the class of cases and of persons that are brought before the Insolvent Court Madras:—

Year	Merchant and amount of debts.	Petty merchants.	Government servants.	Private employes.	Pensioners.	Unemployed.
1880	6 Rs. 21,221 15 8 78,349 15 10 9,081 12 8 1,252 0 0 26,076 9 10 77,101 0 0	19	17	73	11	30
1881	7 Rs. 1,177 13 1 8 16,123 8 6 8,007 0 0 8,115 5 9 39,922 5 0 21,953 5 3 21,721 2 1		21	63	6	21
1882	8 Rs. 2,348 9 9 26,774 3 1 89,821 7 9	12	43	80	12	33
1883	10 Rs. 2,005 5 10 1,000 9 4 1,000 6 9 1,000 10 9 1,000 1 4 1,000 6 5 1,000 11 10 1,000 3 4 1,000 13 0 1,000 0 0 1,000 1 8 2,000 11 3	4	39	90	11	60
1884	No schedule filed in four numbers, 6 Rs. 3,000 10 2 8,270 11 6 5,000 1 7 1,000 2 0 1,000 2 9 No schedule filed in one case	5	38	99	1	55

1st.—It will be seen that the number of cases of traders owing large debts is small—about between 15 and 20 per cent. of the whole. In many of these trading cases there are no assets available. Some 70 or 80 per cent. of the rest of the cases are Government and other clerks, who have no means except their salaries.

2nd.—During the last 11 or 15 years, I have been the Judge who principally presided on the Insolvent Court, and I have found that the present Insolvent Act was capable of being worked satisfactorily in the class of cases brought before the Court.

3rd.—Section 103 of the proposed Act will apply to most cases in Madras, as much of the procedure suitable for cases where the debts are large and assets considerable will be unsuitable.

4th.—In the proposed Bill power is given to a creditor to put the Court in motion and to force an act of bankruptcy (but only after decree).

5th.—However, to enable the creditor to prevent concealment by the debtor of property, I think the procedure formerly in use in England and Ireland of "trader debtor summons" would be very useful. The proposed Bill, however, does not contemplate such procedure, and that procedure has been designedly abandoned in the

English Act. A debtor, in many cases, in fact in most cases, when sued, defends, and in the meantime, or perhaps before suit, puts out of the reach of creditor his property. It is very difficult, however, to prove the fact so as to establish as an act of bankruptcy, and when a decree is obtained there is no property to seize.

6th.—There are occasionally failures in the Mufassal of European and Native traders who possess considerable property, and it may be worth while considering whether, at the instance of creditors or in particular circumstances at the instance of the debtor, the parties might not be allowed to avail themselves of the new Act in the Court at Madras.

7th.—It has happened several times that the Official Assignee has received large assets, and that the debtor then effects a settlement out of Court and annuls the insolvency by consent. I think it advisable to make provision that such cases should bear a portion of commission of the Official Assignee.

8th.—I have read the proposed draft of the Act repealing the present Statute, and think it requires no observations.

From W. WILSON, Esq., Acting Chief Secretary to Government, Madras, to Secretary to Government of India, Legislative Department,—(No. 3053, dated 16th November, 1885).

I AM directed, in continuation of my letter of the 22nd September, 1885, No. 2554, to forward copy of a letter from the Registrar, High Court, containing the remarks of the other Judges on the opinion expressed by Mr. Justice Handley with reference to section 88 of the Bankruptcy and Insolvency Bill.

From H. T. ROSS, Esq., Acting Registrar, High Court of Judicature, Madras, to Acting Chief Secretary to Government, Madras,—(No. 2900, dated 14th November, 1885).

ADVERTISING to G. O., dated 22nd September 1885, No. 2553, I am directed to state that the Acting Chief Justice and the other Hon'ble Judges of the High Court find themselves unable to agree with Mr. Justice Handley in his suggestion that the powers proposed to be given under section 88 of the Bankruptcy and Insolvency Bill would be better delegated to the Registrar or some other official of the High Court than to a Judge of the Presidency Small Cause Court.

2. It is certainly necessary that the Judge who presides in Bankruptcy and Insolvency should be familiar with the principles and practice of this branch of the law; but it does not appear to the Hon'ble Judges that the acquisition of this peculiar knowledge by one or other of the Small Cause Court Judges is likely to be a matter of difficulty.

3. It is possible that the measures now under consideration, for transferring a portion of the original work of the High Court to the Court of Small Causes, and for creating an additional Judgeship in the latter Court, may result in the appointment to the Small Cause Court of a Judge with precisely that experience which Mr. Justice Handley thinks wanting.

From H. BAILEY, Esq., Under Secretary to Government, Bombay, to Secretary to Government of India, Legislative Department,—(No. 8625, dated 17th December, 1885).

I AM directed to acknowledge the receipt of your letter No. 1050 of the 17th June last, forwarding a draft of a Bill to amend and consolidate the laws of Bankruptcy and Insolvency in British India, and requesting to be favoured with an expression of the opinion of this Government, and also of the Hon'ble the Judges of the High Court and of such selected officers, commercial bodies and other persons as His Excellency the Governor in Council may think fit to consult on the subject.

2. In reply, I am desired to enclose copies of the opinions already received by Government in this matter, and to state that no reply has been received from the Hon'ble the Judges of the High Court, though it has been twice expedited.

1. Letter, &c., from the Chief Judge, Court of Small Causes, Bombay, No. 41 of 7th August, 1885.

2. Letter from the Hon'ble the Advocate General, Bombay, No. 50 of 10th September, 1885.

3. Letter from the Secretary, Chamber of Commerce, Bombay, of 26th November, 1885.

3. His Excellency the Governor in Council, I am to observe, approves generally of the provisions of the draft Bill, and considers that the clause which it is proposed to

insert in the enabling Act of Parliament, legalising retrospectively the rules made by the High Court of Bombay on the 31st July, 1878, is sufficient for the purpose.

4. His Excellency in Council is disposed to agree with the Hon'ble the Advocate General, Bombay, that the large powers given to creditors (sections 17, 20, 21 and 22) to control the administration of a bankrupt's estate are likely to be dangerous in this country and to reproduce the abuses which were prevalent under Bombay Act XXVIII of 1865. It will be seen that the Chamber of Commerce express the same apprehension.

5. His Excellency the Governor in Council is not, as at present advised, in favour of the delegation of an insolvency jurisdiction to the Court of Small Causes in Bombay. In England such powers may be delegated to the Registrar, but this officer has the staff of the Bankruptcy Court at his command, while neither the Judges of the Small Cause Court nor its establishment have any knowledge of such business. Moreover, the Judges are already overworked, and the new duties would involve the expense of adding to their number. On the other hand, the Clerk and Stenographer of the Insolvent Debtors Court in Bombay is a barrister of standing, with large emoluments and very little to do. It would, in the opinion of His Excellency in Council, be better to relieve the High Court by delegating to this officer jurisdiction in small bankruptcies (Part VII).

6. If the power of delegating jurisdiction to Judges of the Small Cause Courts be retained, there does not seem, in the opinion of His Excellency in Council, to be sufficient reason for withholding from them the power of committing for contempt of Court (section 88, clause (3), of the draft Bill).

7. In conclusion, I am to state that, in the opinion of His Excellency the Governor in Council, it is worthy of consideration whether in this country it is necessary to arm the creditor with all the weapons which are placed at his disposal by the English Bankruptcy Act, seeing that he already has the power of imprisoning his debtor, which the English creditor has not. On this point the observations of the Chief Judge of the Court of Small Causes at Bombay appear to deserve attention.

From W. E. HART, Esq., Chief Judge, Bombay Court of Small Causes, to Chief Secretary to Government, Bombay,—(No. 41, dated 7th August, 1885).

IN compliance with paragraph 2 of Government Resolution in the Judicial Department, No. 4604, dated 1st ultimo, I have the honor to forward the accompanying memorandum embodying my opinion on the draft Indian Bankruptcy Bill.

I may add that my colleagues, to whom my memorandum has been circulated, concur in the opinion I have expressed that the jurisdiction proposed to be given to this Court should be conferred on an officer of the existing Insolvent Court.

Memorandum by W. E. HART, Esq., Chief Judge, Bombay Court of Small Causes,—(dated 16th July, 1885).

I HAVE not sufficient leisure to be able within any reasonable time to offer anything like an exhaustive opinion on all the provisions of an enactment of the scope and length of this Bill. This is, however, the less to be regretted, as Government will doubtless have the advantage of the opinions of the Commissioner in Insolvency and the Official Assignee, whose knowledge and experience of the working of the present law will enable them to offer remarks more likely to be valuable in matters of detail than any I can make; for mine would, for the most part, be based on hearsay and conjecture, since no portion of the present insolvency law has ever been administered in the Small Cause Court of this Presidency as it has in that of Madras. I shall, therefore, enlarge only on those particular provisions which seem most likely to affect the Small Cause Court.

2. Part VI is that which deals with the constitution, procedure and powers of the Bankruptcy Courts: section 88 provides for the delegation by the High Court of certain of its powers in bankruptcy to a Judge of the Presidency Small Cause Court.

3. In commenting on a proposal in 1879 to give the Presidency Small Cause Courts an insolvency-jurisdiction I expressed a strong opinion against the advisability of such a course. To that opinion, and for the reasons there given, in which I pointed out various objections and difficulties, I still adhere, and, for the sake of brevity, beg to refer Government to the annexed extract for an expression of my opinion on the general question of conferring an insolvency-jurisdiction on a Court constituted in the manner and for the purposes of the Small Cause Court.

4. As regards the particular provision of the present Bill, I would point out that with our present staff it is quite impossible for us to undertake any more work than we have at present. Of course this objection could be obviated by additions to the Court and office establishment; but this would entail an additional expense which I think would not be compensated by the value of the work done in insolvency. On the other hand, it seems to me that all the work which the Bill proposes should be done by a Judge of the Small Cause Court could be equally well done by the Clerk and Sealer of the Insolvency Court. This is an appointment which, so far as I know, has always been held by a barrister-at-law; but to ensure the selection of a person of position, capacity and character for the post, some provision might be inserted in the Act. I once held the acting appointment myself for a short time, and am therefore speaking from experience when I say that the duties are extremely light while the emoluments are considerable. If to the usual duties of the Clerk and Sealer, which (except on Wednesdays, when he is engaged in Court before the Commissioner for the whole day) occupy about half an hour a day or less, were added those which section 83 proposes to confer on a Judge of the Small Cause Court, the object which that section has in view, namely, the relieving of the High Court of a portion of its less responsible work, would be attained without incurring any real expense, and the Clerk and Sealer would be usefully employed to an extent more commensurate than at present with the income he enjoys.

5. If the jurisdiction in bankruptcy is conferred on a Judge of the Small Cause Court, I do not think the power to commit for contempt should be taken from him, as in section 88 (2) at least for a contempt committed in his presence. It is advisable that every Court should have this power for its own protection; and in the discharge of its ordinary functions the Small Cause Court enjoys it under the provisions of the Small Cause Courts Act. I do not therefore see why it should be taken away simply by reason of the Small Cause Court acting as a Bankruptcy Court, and only while it is so doing.

6. It also seems to me open to objection that while the appointment with limited powers contemplated by section 88 is one in the hands of the High Court, it should be possible for the Local Government to appoint the same person not only without such limitation, but even with a jurisdiction more extensive than the High Court itself. This let in a possibility of conflict, or at least of confusion, which ought in all matters of jurisdiction to be most scrupulously avoided. Section 82 (c) confers bankruptcy-jurisdiction on any Civil Court in the Presidency appointed by the Local Government, with the sanction of the Supreme Government. Section 83 (a) limits the bankruptcy-jurisdiction of the High Court to the local limits of its original civil jurisdiction. But section 83 (b) leaves it to the Local Government, with the sanction of the Supreme Government, to fix the limits of the jurisdiction of a Court appointed under section 82 (c). There is nothing apparently to prevent the Local Government appointing the Presidency Small Cause Court under section 82 (c), in which case its powers would be equal to those of the High Court. But if its jurisdiction under section 83 (a) were defined to include, say, the township of Coorla, the Small Cause Court would enjoy a jurisdiction more extensive than the High Court. Such provisions seem liable to conflict with the authority to delegate limited powers reserved to the High Court by section 88. If it is considered necessary that such authority should be exercised rather by the High Court than by the Local Government, I should advise the insertion of words in section 82 (c) restricting the power of the Local Government to the appointment of Courts situate within the local limits of the jurisdiction of the High Court.

7. In section 91 (1) I should recommend the insertion of words making it clear that an appeal from the order of a Small Cause Court should lie to the High Court, if a provision to that effect be enacted by the High Court.

8. These are all the sections of the Bill which appear to affect the Small Cause Court. I will now offer a few remarks, as shortly as possible suggested by a cursory perusal of the general provisions of the Bill as they now stand.

9. Section 3 (1) (b).—It would be advisable to define more fully what conveyance is fraudulent in a country like this, where *debtful* has a very different meaning from the English, and in an Act which, to judge from section 82 (c), is intended to be applicable to all persons in the Mofussil, who for the most part have not the opportunity of acquainting themselves with the English decisions.

10. Section 3 (1) (a), (c) & (d).—The expressions put into the hands of creditors a very powerful weapon, capable of being used for purposes of extortion, oppression and extortion. In England, a rich commercial country, such provisions may be necessary for the protection of creditors after the power of imprisoning their debtor in connection with their debts had been taken from them. But in this country, where the system of imprisonment for debt still exists, and where the majority of the population are non-traders, but little removed above the degree of paupers, and of whom a larger number are insolvent in fact, if not in name, I think such provisions are not only unnecessary but even dangerous, as they are sure to be used by the foreign money-lenders, who constitute the bulk of the creditors, for purposes of extortion, with the result of further depleting their already sufficiently impoverished victims, or who, as they already have a sufficient hold in the facilities afforded by the law now stored by our Civil Courts for attachment of persons and goods both before and after judgment, attachment of wages, debts due to property in hands of third parties, &c., &c.

11. Section 7 (1).—Is it intended that a judgment debtor and a decree, say, of the Calcutta Small Cause Court, who, after partial satisfaction of the decree by attachment of his goods at Calcutta, absconds to Bombay, and is there arrested under the Calcutta decree sent for execution to the Bombay Small Cause Court, shall be able to invoke the assistance of the Bankruptcy Court at Bombay, where he has no creditors? This would cause great inconvenience to the creditors at Calcutta, where the original act of bankruptcy was committed (section 3 (1) (c)), and where all the proofs are, and would give a good deal of unnecessary trouble to the Bombay Bankruptcy Court. I think, too, the limit of the period for which, as well as of the period *within* which, a debtor has "ordinarily resided" should be defined, so as to prevent a person changing his residence merely for the purpose of getting his discharge from a Court in the jurisdiction of which he has no creditors.

12. Much of the procedure laid down in Part I of the Act seems to me to be unsuitable for universal application in this country. In this Presidency, at least, the majority of insolvencies are far comparatively

small amounts, and a large proportion of them are of persons not engaged in trade. In such cases I am inclined to think a procedure copied from Statute 46 & 47 Vic., cap. 52, which was framed for general application in a great commercial country, will here in many cases be found unnecessarily cumbersome and expensive. If the assimilation of the bankruptcy law in two countries so differently circumstanced as England and India be really considered necessary or advisable, I should recommend the assimilation, at least at first, to be confined to persons occupying somewhat similar positions; and to this end I would preserve the distinction between traders and non-traders which this Act abolishes, applying only to the former those provisions which are specially adapted to and useful in the case of a commercial bankruptcy, but which in the case of a non-trader will impede rather than expedite the distribution of his assets among his creditors.

13. *Section 31 (2).*—I think this provision will be found to work very harshly against the debtor, and not to benefit the general body of creditors. In this country the very great majority of the population are entirely dependent, even for the necessities of life, on the money-lenders. These men at present often obtain a decree on a promissory note merely to save the statutory bar of limitation, and then proceed, perhaps, to partial execution against the goods, but still continue the debtor's credit in making him further petty loans. This, of course, they will not do if they are to be debarred from proving these, in case of the debtor's ultimate bankruptcy, no matter at how long a period after, by reason of the threat of bankruptcy renounced by execution of the first decree. I would recommend the bar to be not notice of the first act of bankruptcy, but notice of the presentation of a bankruptcy petition either by a creditor or the debtor.

14. *Section 33 (1).*—For the same reason I would omit "or of the commission of any available act of bankruptcy by the debtor."

15. *Section 40 (2).*—This exemption apparently only protects the purchaser at a Court's sale from the consequence of the act of bankruptcy committed in that sale. But it often happens that several sales take place at different times in partial execution of the same decree. Apparently the purchaser at a subsequent sale would be protected from the consequences of the act of bankruptcy committed in that sale, but not from those of one committed in a prior sale in respect of the same decree.

16. *Section 41 (2).*—So, again, it would appear that if a debtor, against whom his creditor had obtained a decree which was partially satisfied by execution, afterwards paid to the creditor a portion of the balance due on his decree, such payment might be availed in case of the debtor's subsequent bankruptcy, because at that date there was "available" the "act of bankruptcy" in the partial execution which, of course, was known to the execution creditor at the time of the further payment.

17. I think the objection already noticed in respect of the general application of Part I also applies in a great measure to that of Parts V and VI.

18. *Sections 165 to 170.* I think these provisions, so far as they relate to debtors, are open to much the same objection as that pointed out in regard to section 3 (1) (d), (e), (g). They are copied from an English Act framed when imprisonment for debt had been abolished, which it has not yet been in India, where the creditors consequently do not require so much protection as in England, and where they are more likely to use such provisions for purposes of intimidation, oppression, or extortion. *Section 165 (a)* I consider especially objectionable both on these grounds and on those pointed out in regard to section 31 (2).

19. *Section 170 (c) and (d) and section 170.*—I think it would be advisable to make some provision for the validity of rules and levy of fees *ad interim*.

20. In regard to the general scope of the proposed Act, as disclosed by the Statement of Objects and Reasons, the draftsman would appear to have formed the enactment mainly on the lines of the present bankruptcy law of England as last amended by the Statute 47 Vic., cap. 52, because, as he says in paragraph 9 and 10, "it is eminently desirable that the circumstances under which a debtor may be declared insolvent, and under which he may obtain his discharge, should be as far as possible the same in London and Calcutta;" and while the new Act should be "adapted in details to Indian circumstances," it "should follow the English Act as closely as possible, except where there is some substantial reason for taking a different course."

21. I for one do not see this "eminent desideratum" in the case of two countries so differently circumstanced as India and England. No doubt it may be a convenience to English merchants in Calcutta and England that they should all be subject to the same law; but in legislating for India generally we have to consult something more than the convenience or wishes or wants of a handful of foreigners. From the mere fact that a certain enactment is found to work well in England to assuming that the English Act does work well there, as to which there would appear to be some difference of opinion among experts, it is not a safe, nor even probable, inference that it would in any way be suitable to a country so differently circumstanced as India. England is a rich commercial and manufacturing country; India is a poor agricultural one. The ordinary Englishman is substantial and independent; the ordinary Indian is an insolvent pariah, hopelessly indebted to his Mirwari money-lender. The money-lender's profits in England are, as a rule, spent in the country; in India they are, as a rule, sent abroad, thus acting as an incessant drain on the resources of the most impoverished classes. A large proportion of the English bankrupts are traders; in India a large proportion are non-traders. England has been for centuries in the van of European progress, peopled by the slow growth of a civilization born of native Western ideas, self-acquired and assimilated into her very being; India has barely emerged from oriental semi-barbarism, and such civilization as she has is, for the most part, of foreign origin, which had already attained maturity abroad before its importation, and has as yet been only very partially adopted here. The lowest ranks of workers in English society form, compared with Indian, a small proportion of the population, and non-workers among the poorer classes are an insignificant item; in India the lowest ranks of workers form a very large majority (about 75 per cent.) of the entire community, while the non-workers form a considerable proportion of the poorest classes. In England the judgment-debtor has for years been relieved from the depressing and disabling effects of the system of imprisonment for debt, which in India is still a powerful engine of extortion in the hands of the money-lender, and a ready tool for the further depauperisation of the most impoverished class.

22. The poorest class in England, as compared with those in India, are infinitely superior in material wealth, in resources of employment, in education and intellectual activity, and they are in a far smaller numerical proportion to the general community. When we find the two countries circumstanced so differently in regard to the bulk of their population, it seems to me that any law regarding the relations between debtor and creditor must of necessity differ, not in "details" only, but in "general principles;" at least I submit, the basis of producing a "substantial reason" is rather on those who advocate a uniform law, than on those who argue, from the difference of circumstances, the necessity for a difference in the law to be applied to them.

Extract, paragraphs 13 to 19, from letter from Chief Judge, Bombay Court of Small Causes, to Secretary to Government, Bombay,—(No. 9, dated 7th April, 1879).

"13. Again: the advantages so to be gained by the proposed change (namely, the saving of a few hours for the trial of long cases on the original side and the saving of a few rupees in professional costs) must be set off what appear to me to be far more than counterbalancing inconveniences which will result to the general public, to the insolvents and their creditors and to the officials of the Indian Court.

"14. In the first place, supposing only those unimportant or unopposed cases which at present take up about three hours in a fortnight of the Commissioner's time were transferred to the Small Cause Court; to this

extent at least the Judges of the Small Cause Court must divert to insolvency-matters the time which would otherwise be spent in the interests of the general body of litigants. During the three hours so spent from 30 to 40 of those small causes might have been heard and decided the speedy adjudication of which is the *raison d'être* of the Court.

"15. In the next place, if the insolvency-work be divided between the High Court and the Small Cause Court, it will be necessary either to have two separate offices, establishments, or to be constantly transporting the Insolvent Court officials, with their books, papers, &c., from their present headquarters in the High Court building to the Small Cause Court, a distance of about a mile, and back.

"16. The former of these two courses would probably be both the more expensive and the more inconvenient to the public. It would involve the appointing of a new Clerk of the Court and a new Official Assignee, which appointments, having regard to the provision of the Statute II Vic. c. 21, I am inclined to think it is not within the competence of the Indian Legislature to make. It would also involve the employment of several additional inferior officials, such as clerks, valets, and the like. It would further occasion considerable inconvenience to creditors seeking inspection of books, &c., and sometimes necessitate the payment of searching-fees in both offices, especially after the lapse of some years, when it would become necessary to make inspection of old cases. Again, much difficulty and loss to the estate would be occasioned if different members of a Hindu family, or different partners in a firm, became insolvent separately, and went some to the one Official Assignee and some to the other; the difficulty would be doubled of giving titles to purchasers, and consequently of getting fair prices for the properties sold.

"17. On the other hand, if the present establishment were required to work in two places at such a distance from each other as the High Court and Small Cause Court, there would be a great increase of expense and waste of time and of most painful inconvenience to the officials of the Insolvent Court. About 100 additional clerks would have to be employed; and considerable expense would be incurred in the carrying of books, papers, and proceedings, while more than the time gained to the Court by the despatch of cases would be lost to the office *en route* and *in port* between the two Courts.

"18. I believe that in Malabar the sections of the Civil Procedure Code relating to insolvency have been applied by Resolution of the Local Government to the Small Cause Court. This has not been done here, and I do not think, if it were done, any material advantage would result, or that many applications would be made by persons seeking the benefit of the sections. The provisions of the Civil Procedure Code cannot avail until after judgment has passed and the judgment debtor has actually been arrested. On the other hand, any person may avail himself of the provisions of the Statute II Vic. c. 21, at any time, and thus avoid arrest, or obtain his discharge. Almost all debtors would, therefore, I presume, naturally prefer to take advantage of the last-mentioned enactment.

"19. For all these reasons, and because I am unable to suggest any other method than those already discussed, which will not be open to the same objection whereby an insolvency jurisdiction could be conferred upon the President, Small Cause Courts, I am of opinion that no such jurisdiction should be conferred. I will only add that if the real object of the proposed extension be merely to relieve the High Court of a portion of its labour, by removing from its cognizance the bulk of unimportant and unprofitable insolvency cases, precisely this result could be attained without incurring any expense, and without adding to the work of any other Court by the abolition of the present system of imprisonment for debt; for it is simply to avoid arrest, or to escape from imprisonment, that the great majority, if not all, of the proposed insolvents apply for the benefit of the Act."

From the HON'BLE F. L. LATHAM, Advocate General, Bombay, to Under-Secretary to Government, Bombay,—(No. 59, dated 14th September, 1885).

With reference to the proposed Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India, I have the honour to offer the following remarks.

The Bill is avowedly an adaptation, almost a transcript, of the last English Bankruptcy Act, that of 1883. So many systems of bankruptcy have been tried and found defective in England that I cannot help thinking that it would be well to see how this latest system bears the test of experience before transplanting it to India. A short time will show whether the Act of 1883 is fitted to become the permanent law of bankruptcy, and which of its provisions require repeal or amendment; and the present insolvency law of India, which, though imperfect, does not on the whole work badly, may without any serious inconvenience be allowed to remain in operation for that short time.

2. The most striking difference between the proposed Bill and the present law is the large power given to creditors to control the administration of the bankrupt's estate. Section 17 allows the creditors before adjudication by a majority of three-fourths, and subject to the approval of the Court, to resolve on a composition or on a scheme of assignment of the debtor's affairs; section 20-21 allows the creditors, if the Court decline such an appointment desirable, to appoint a person other than the Official Receiver to take care of the property of the bankrupt; section 21 allows the creditors to appoint a committee of inspection; section 22 allows the creditors, after the adjudication, to approve of a composition or scheme of assignment, subject to the approval of the Court. I confess that I dread lest the effect of these sections should be to inhibit, through a bad manipulation of the provisions of the Act in favour of the bankrupt. Even now the schemes of insolvents are often filled with fictitious debts in favour of his relatives and friends, and when under Act XXVII of 1875 the temptation to this form of fraud was greater it was notoriously prevalent. I might say more. I observe that the approval of the Court is made a condition to the exercise of the powers by the creditors. But such an approval is not to become a mere formality when the responsibility of the initiative is not with the Court itself. I should prefer to have the Official Receiver trustee in every case, and to insist that any composition or scheme of assignment should be directed by the Court, either on the motion and after hearing the Official Receiver.

3. I think that section 2 will not in its present form have the effect desired by the framers of the Bill. Comparing it with section 2 of the English Act, I think it would be confined to referring to the extent of the Bill as regards its effect as a form of procedure against a debtor and would nullify the whole Bill—*vide Williams' Bankruptcy Law and Practice* (3rd edition), page 1.

4. Section 8, which gives the debtor immediate protection from process against his person as soon as a receiving order is made, is a most important change in the present law. At present the great struggle in insolvency-proceedings is as to the granting or refusing an *interim* order of protection; there is, comparatively speaking, no contest as to the grant of final orders. It seems to me that the section in its present form is adapted to a state of the law in which imprisonment for debt has almost ceased to exist, whereas in India it is still one of the main remedies by which the execution of debts is enforced.

5. Section 16 is, in my opinion, a most wholesome provision, though, unless the Court has power to dispense with it in small and unimportant bankruptcies, an increase of the number of Judges will be required. I would make it plain that the Official Receiver, or any creditor may examine the debtor by counsel or solicitor. The requirement of signature by the debtor or (s) should be struck out, as it will tend to nullify the effects of the section. The official record of the evidence is sufficient security for accuracy.

6. In section 13 I do not think that the Chief Justice should have power to remove the Official Receiver at his discretion without good cause.

7. Sections 65 and 67 do not make it clear what is to be done with the interest accruing on the estates of bankrupts. It ought in justice to belong to the estate.

8. I doubt section 88, allowing the delegation of certain powers to the Judges of the Presidency Small Cause Courts, being of any practical use. It is adapted from the provisions of the English Act allowing the delegation of powers from the Judge to the Registrar. But the Registrar has the command of the staff of the Bankruptcy Court, which would not be the case with the Small Cause Court Judge. If anything be done in this direction, I think it should rather be to transfer bankruptcies of small estates to the Small Cause Courts. But I doubt any saving of judicial time or expense being so effected.

9. Part VII, as to small bankruptcies, is a wholesome provision as the Act now stands. But I am inclined to think that in India all bankruptcies should be dealt with in the manner prescribed by that Part.

From J. MARSHALL, Esq., Secretary, Bombay Chamber of Commerce, to Acting Under-Secretary to Government, Bombay,—(dated 25th November, 1885).

I AM directed to acknowledge the receipt of your letter No. 1160, dated 1st July last, forwarding copy of a draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India, and requesting that Government may be favoured with the opinion of the Chamber of Commerce thereon.

The Bill was referred to a special Committee, consisting of the Honble P. Forbes Adam, of Messrs W. & A. Graham & Co., Chairman of the Chamber, Mr. A. F. Beaufort, of Messrs Lyon & Co., Deputy Chairman, Mr. W. A. Baker, Manager, National Bank of India Limited, Mr. E. Miller, of Messrs. C. Macdonald & Co., Mr. J. H. Slight, Deputy Secretary and Treasurer, Bank of Bombay, and Mr. Vithubandas Atmaram, of Messrs. Narandas Lajpalam & Co., and their report having been approved the Chamber has now the honour to submit its opinion on the provisions of the Bill.

Some little delay has taken place in forwarding the report to Government, as the Chamber was anxious to obtain the views of business people at home on the actual working of the English Bankruptcy Act of 1883. These, however, not having come to hand, the Chamber will take the liberty of embodying in a supplementary report any additional information which may hereafter be received in response to the inquiries instituted.

The Bill has been read through and discussed clause by clause, and subjoined will be found in detail the additions and amendments which the Chamber considers desirable. Before proceeding to the discussion of the provisions of the Bill, however, the Chamber had to consider two broad questions—first, whether in the existing state of things a new Insolvency Act was called for; and, second, on that, in that event, the general principles of the proposed Bill were thoroughly adapted to the requirements of the trading community and to the conditions attending insolvency in India.

To the first question the answer was unanimously in the affirmative. The necessity of a radical reform in the bankruptcy law for India has long been only felt by the mercantile public, and has on numerous occasions been the subject of anxious consideration. In the address which the Chamber had the honour to welcome the arrival in India of His Excellency the Viceroy the matter was prominently mentioned as one of pressing importance; and had it not become known that the Bill now under report was in preparation it was the intention of the Chamber to memorialise Government begging that action might be taken at the earliest possible opportunity.

The second question did not admit of so ready an answer. The conditions under which trade here and at home is conducted are so widely divergent and the nature of the cause of the majority of insolvencies so entirely different, that at first sight the mere fact that the Bill is drawn on the same lines as the English Act carries with it a presumption of possible misfitness. A closer examination of its provisions, however, shows that in its leading principle of official control over bankrupt estates it is in a great measure a return to what has long been recognised as one of the best features of the present Indian insolvency law. The system of failure in operation and the gross malpractices perpetrated under the Bombay Act for speedy liquidation, (No. XVII of 1860), which was a distinct departure from this principle, is still well within the memory of several members of the Chamber; and there can be no question that efficient control by responsible, qualified officials must be a fundamental principle of insolvency legislation in India. The absence of the separate supervisor exercised in England by the Board of Trade need not, in the opinion of the Chamber, interfere with the efficient working of the Act so long as a careful provision is made in the rules that only thoroughly competent officials are appointed to responsible posts, and that they are placed under the guidance and direction of the Court.

A very marked difference between the law of insolvency here and in England exists in imprisonment for debt being still maintained in India. In the opinion of the Chamber it would be unadvisable as yet to deprive creditors in this country of that power. There are no doubt weighty arguments in favour of following English legislation. Amongst the poorer classes their personal liberty in reality constitutes the security on which they are able to obtain advances, and were the power of utilizing that security once removed the ability of contracting debts beyond the means of repayment would be done away with also, and much unnecessary extravagance in the shape of expenditure on marriage and other festivities—which accounts for a considerable proportion of the insolvencies amongst the lower classes—would thus be avoided. In other words, by removing the power of getting into debt, people would be compelled to live within their means. While admitting this as regards the poorer classes, the Chamber is of opinion that amongst merchants and bankers it is decidedly advisable to the abolition of liability to imprisonment for debt for a reasonable point of view. The change would be too radical, and, by altering the basis on which business has been conducted in this country from time immemorial, might seriously interfere with the ordinary course of trade. As to whether or not the Bill in its present form fully contemplated the existence of moratorium for debt is more a question for skilled lawyers than a body of laymen; and the Chamber therefore would content itself as regards this point by merely expressing the opinion that it cannot be too carefully considered.

So far as Bombay is concerned—and the same probably holds good in the other Presidency towns—one of the greatest disadvantages which creditors have to contend with is the facilities which fraudulent debtors have for escaping from the jurisdiction of the Court by absconding into Native territory. Amongst a certain class of Native trader—and that by no means the lowest—this is a very common means of evading punishment, and owing to the ease with which it can be accomplished it tends greatly to encourage fraudulent bankruptcy. The Chamber quite appreciates the serious difficulties there are in the way of bringing about a remedy, but it would earnestly solicit the attention of Government to this point. Once made it possible for the writ of the Bankruptcy Court to take effect in Native States, and reckless trading amongst Native dealers will have received a deathblow which no other form of legislative enactment could administer.

The Chamber observes that the draft Bill omits the disqualification of a bankrupt to hold certain offices, as provided under Part II of the English Bankruptcy Act of 1883. The advisability of this omission the Chamber is very much inclined to question, as there is no doubt that, especially amongst Natives, the holding of certain appointments carries considerable dignity, and the deprivation of these as the direct result of bankruptcy might

have a wholesome deterrent effect. In the opinion of the Chamber the Bill should provide for the disqualification of a bankrupt for holding the following positions where not already settled by existing Acts, namely:—

Member of the Legislative Council.
Justice of the Peace.
Member of the Town Council or Municipal Corporation.
Member of a Port Trust or Harbour Board.
Director of a Joint Stock Company.

The eligibility of bankrupts for these offices after obtaining their discharge might be made dependent on the nature of the bankruptcy as certified by the Court.

Taking each section in order the Chamber begs to submit the subjoined remarks:—

Section 5 (1) (d).—In addition to this clause the Chamber considers it important for the due protection of creditors that in the case of a firm which has carried on business at a place where a Bankruptcy Court exists, and has partners where there is no such Court, the estate should be wound up at the place where the Bankruptcy Court is, and the partners elsewhere should be liable to have their assets at once taken possession of by the Official Receiver. Further that, if a firm so constituted becomes insolvent, the act of insolvency of any one partner should render all other partners, wherever situated, insolvent also, and liable to have their property attached by the Court.

Section 8.—The Chamber is of opinion that this section should provide that in the case of a debtor with no available assets the Court should not be able to give a complete discharge, but should have power to compel him to proceed with his insolvency. An *interim* order must be granted in the first instance, but revoked unless the debtor proceeded with the insolvency when called upon to do so.

Section 12.—The advertisement giving notice of the receiving order should, the Chamber thinks, be published in at least one of the leading local newspapers in addition to the Government Gazette, and this suggestion should be made applicable in every instance where notice by advertisement is provided for, notably in section 19, (5), section 27 (5), section 30 (3).

Section 13.—As the time fixed for submitting a statement of a debtor's affairs seems very limited, it is suggested that under sub-section (2) (i), where an order is made on the petition of the debtor, ten instead of three days should be allowed, and where the order is made on the petition of a creditor (ii) the time be increased from seven to twenty days.

Section 16.—The Chamber is of opinion that there is no necessity for making the public examination of a debtor compulsory where a compromise has been agreed upon, and it would therefore ask that the following be added to sub-section (1):—

"Except that in cases where the majority of creditors in number and three-fourths in value are prepared to accept a compromise, the public examination of the debtor may be dispensed with."

Section 17.—In all cases of compromise or composition the Chamber deems it most important that the creditors should have the fullest possible information before them as to the true state of the debtor's affairs; and it seems desirable, therefore, that the following words should be appended to sub-section (5):—

"with a full statement of the debtor's affairs."

Section 21. The Chamber recommends, should be entirely omitted from the Bill. It may be that in England, where the books of an insolvent are in English and information as to an estate can be obtained without much difficulty, a committee of creditors may prove of considerable assistance in securing a favourable liquidation, but the experience of those who have been concerned with bankrupt estates here is of a contrary character. In all probability it might lead to the appointment of committees of creditors favourable to the debtors, as was found to be the case in working Bombay Act XXVIII of 1865, which was admittedly a complete failure as a means of advantageous liquidation.

The omission of this section and the abolition of committees of inspection would necessitate some alterations in the wording of subsequent provisions of the Bill. For instance, the Chamber suggests that section 50 should read:—

"The trustee may, with the permission of the Court, and after such notice to creditors as the Court may prescribe, do and for any of the following things:"

and in sub-section (1) (c) and (1) of the same section, (2) of section 51, (1) of section 57, and (1) of section 61, the word "Court" should be substituted for "committee" or "committee of inspection."

Section 24. The desirability of arranging to secure the arrest of an insolvent who has taken refuge in a Native State has already been mentioned, and if that be practicable, provision would have to be made for it under this section as an order (2) of section 26.

Section 25.—The same provision as for the collection and delivery of letters should be made for telegrams.

Section 27 (5) allows 14 days' notice only, to creditors of the day fixed by the Court for hearing a debtor's application for discharge. This would be insufficient for creditors out of India, and the Chamber would recommend one month's notice being allowed.

Section 27 (6).—The Chamber suggests that a decree passed by the Court against a debtor when making an order of discharge should be in favour of the Official Receiver only, his office being continuous, while a trustee might have to leave the company at times quite very short notice.

Section 28 (5).—Considering that the current rate of interest in India is 9 per cent as compared with 4 per cent in England, the rate of interest payable out of surplus funds, as provided for in this clause, might fairly be increased from 4 per cent as proposed to 6 per cent per annum.

Section 36 (1).—The Chamber is of opinion that the preference extended to a landlord's claim for rent under this section is unduly large. It thinks that no power of disclaim should be granted after bankruptcy, and that he should not be entitled to a preferred claim for more than four months' rent, subject, moreover, to assets of that amount belonging to the insolvent's estate lying on the premises.

Section 52 (2).—After the words "application of" the Chamber suggests the insertion of the words "the trustee or"

Section 64 (3).—It would be well to have the "prescribed officer" mentioned in this clause defined, as it is important to know in whose hands the very responsible power of regulating the charges may be placed. It is also suggested that "leave of the Court" be substituted for "proof of such taxation having been made," before payment.

Section 67.—Having regard to the constant fluctuations in the value of Government securities, it seems to the Chamber that if it could be so arranged it would be preferable, instead of investing surplus funds in Government paper, to hand them over to the Accountant-General, who on behalf of Government should pay 4 per cent interest on the amount. Such interest, moreover, should go to the separate estates, or, in other words, be for the benefit of the creditors, who are frequently kept out of their dividends for long periods pending the decision of suits and disputes. The system adopted under the English Act, and sought to be introduced into this Bill, of utilizing the interest obtained on funds held during liquidation towards minimising the fees payable in bankruptcy, has rather a tendency to favour debtors to the disadvantage of creditors.

Section 70.—In addition to empowering it incumbent on a trustee to grant a creditor inspection of the books kept in connection with the liquidation of an estate, it should also be provided that creditors should have free

access to the books of the insolvent. It should be further arranged that an experienced and trustworthy staff of Native *mektas* or accountants should be maintained on the staff of the Court (either attached to the Official Receiver or Trustee), through whom reliable translations and extracts from books kept in any of the Native languages could be obtained. Great difficulty is experienced in obtaining information of this character under the existing law, and a cred for employing an outside *mekhta* for the purpose of searching a debtor's accounts always runs the risk of the man being bought over by the other side.

Section 88 (2).—It appears to the Chamber somewhat anomalous that a Judge of the Small Cause Court should not have the same power to commit for contempt as is granted to the Court under section 23, clause (4). The omission of clause (4) is accordingly suggested.

Section 103.—The Chamber would be in favour of raising the limit for small bankruptcies from Rs. 3,000 to Rs. 5,000. In estates within the latter sum it is very unlikely that cases of fraudulent books, &c., will occur requiring the more complete machinery of the previous portions of the Act; nor does it seem necessary that the examination of the debtor be insisted upon, as provided under clause (c).

From H. BATTY, Esq., Under-Secretary to Government, Bombay, to Secretary to Government of India, Legislative Department,—(No. 784, dated 5th February, 1886).

With reference to your letter No. 113, dated the 18th ultimo, I am directed to forward, for submission to the Government of India, copy of a letter from the Acting Prothonotary and Registrar of Her Majesty's High Court, Bombay, No. 21, dated the 28th idem, and its enclosures, regarding the draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India.

From G. H. FARRAN, Esq., Acting Prothonotary and Registrar, High Court, Bombay, to Chief Secretary to Government, Bombay,—(No. 21, dated 28th January, 1886).

With reference to your letter No. 405, dated the 14 July, 1885, I am directed by the Hon'ble the Chief Justice to forward the accompanying report on the draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India, prepared in accordance with his Lordship's directions, and to state that the Hon'ble Mr. Justice Bayley, who has been for some years presiding over the Insolvent Court, approves generally of the same.

From G. H. FARRAN, Esq., Acting Prothonotary and Registrar, High Court, Bombay, and C. A. TURNER, Esq., Official Assignee, Bombay, to the Hon'ble the Chief Justice, Bombay.

In accordance with your Lordship's directions, we beg to submit the accompanying remarks on the draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India.

Remarks

Protection from arrest.—The proposed Act, which is principally taken from the Bankruptcy Act of 1883 now in force in England, where no permanent fund has been provided, provides that the receiving order shall have the effect of protecting the debtor from arrest in respect of any debt payable in bankruptcy. It does not contemplate any opposition on the part of creditors at this stage, but deals only with the granting or withholding of a final discharge. In Bombay, where a permanent fund for debt is still provided and a protection is afforded by the vesting order under the present Act, the chief object of the majority of insolvents is to obtain immunity from arrest at once by means of *ratna* or *putra* or *gandhi*, and afterwards by obtaining their personal discharge under section 17, after which they but rarely would be satisfied in applying for their final discharge; while the principal object of the opposing creditors is to prevent an insolvent from obtaining such immunity, in order that he may be able to secure better results by making use of his power of arrest. A practical result would be that the large proportion of petitioning debtors would come to the Court for the purpose solely of obtaining protection from arrest, would have no object in proceeding with their petitions, and would probably neglect to take any further steps after the receiving order was made. To remedy this it is suggested that the Court should have power both (1) to dismiss petitions for ward of person, and (2) to cancel so much of the receiving order under section 8 (1) as gives protection from arrest. It would be unnecessary that the Court should have power to direct the discharge from jail of a debtor imprisoned before the making of the receiving order; there does not appear to be any provision to that effect in the proposed Act.

Adjudication of bankruptcy.—The change made by the proposed Act with respect to the adjudication of bankruptcy is highly advantageous. Under the provisions of the Act in respect to that subject it will be possible to have debtors adjudged insolvent before they have had time to dispose of all their property, and creditors will in all probability make use of those provisions more and more if the Act is found to work well. It is very important that adjudicated insolvents should make the statement required by section 15 and (2) come up for the public examination directed by section 16. Debtors who have been adjudged insolvent almost invariably abscond from Bombay into Native States, and the only power now in the present Act to compel their return. Such a power extending over the whole of British India is given by section 24 of the proposed Act; but as the evading debtors almost invariably abscond to Native States it would largely increase the efficacy of the Act if it were found possible to extend that power to Native States also.

Compensation with creditors.—The change made by the proposed Act with respect to compensation with creditors is also beneficial. The present Act is silent on the subject, and the result is that documents purporting to be assignments in favour of creditors for the benefit of the estate are often set up with the object of either enabling the insolvent to evade the public examination, or of keeping from the Court all power of investigating the insolvent's affairs, even though an order of credit or may desire such investigation. Considering, however, that the public examination of debtors will in many cases involve the disclosure of affairs of creditors which they may naturally object to be made public, power might be given to the Court in cases of compensation with creditors to dispense with the public examination of debtors when a sufficient majority of creditors reserve consent to it.

Property of bankrupt.—The words of section 38 (1), which deals with the property of the bankrupt, are not so wide as those of section 7 of the present Act, and it is important, especially when dealing with property in the Native or outside British India, where the law is imperfectly understood, that the words of the Act should clearly and distinctly cover the property of the bankrupt, whether within British India or without.

Discharge of bankrupt.—Under the present Act there are two sorts of discharge that can be granted to an insolvent by the Court: (1) freedom from personal imprisonment for debt, and (2) freedom from liability of after-acquired property. It is one of the great faults of the present Act that a separate application has to be made for each, and the Court at the hearing of the matters of an insolvent's petition under section 35, where all the facts regarding his conduct are before it, makes an order as to the latter but only as to the former sort of discharge. In Bombay the principal object of the debtor in coming to the Court is to obtain his personal discharge, and the object of an opposing creditor is either to force the insolvent to lay off his opposition or to induce the Court to dismiss his petition. The reason is that a creditor in Bombay in opposing an insolvent is

invariably working in his own interest and not in that of the general body, and he considers that if the petition is dismissed he will succeed in obtaining a greater portion of the insolvent's property than if it were distributed by the Official Assignee. The power of dismissing petitions given by section 17, and used as a penalty for misconduct, encourages this system. The proposed Act will effect a great improvement in this respect, as under it the Court will consider the whole question of the insolvent's conduct and discharge, and will either grant him his discharge (conditional or otherwise) or punish him under the Act itself.

Penalties.—The provisions of sections 27, 41, and 47, which deal with penalties and punishments, are much more severe than in the present Act. It may be noted that a bankrupt cannot under them obtain an unconditional discharge more than once, and, if and so long, he is liable to be punished by imprisonment if he obtains credit to the extent of Rs. 20 without being an accomplice. There is a class of penalties under the English Act which has been omitted from the proposed Act, namely, degradation of a bankrupt to hold certain offices. It, however, seems desirable that no penalty should be granted which may have the effect of causing the mercantile community to regard bankruptcy as a disgrace, which in Bombay, since the shareholding, they have to a great extent ceased to do. As to the class of penalties which would appear to be desirable to make the disability to hold certain positions which may be regarded as an undue result of bankruptcy.

Decrees against bankrupt.—Passing a decree in favour of the trustees against the bankrupt is a punishment often enforced in England in cases where no assets are forthcoming in the bankruptcy. The practice in Bombay has been to pass such a decree in every case, even in considering the great facilities bankrupts have in this country for concealing their property from the Court, that practice seems very odd one, as affording a ready way of recovering from the bankrupt after his discharge, property that he may be shown to be possessed of without having to prove that it was concealed at the time of the discharge. It would probably be found more convenient if such decrees were passed in all cases in favour of the Official Receiver, as a trustee might not be forthcoming some years after the bankruptcy, when required to do so. Such decrees should also, if possible, be exempted from the operation of the law of limitation as provided in the present Act, as it would be almost impossible, as well as useless, for the Official Receiver to take the necessary steps for keeping all such decrees alive, and equally impossible to foresee in what cases it would be desirable to do so.

Procedure.—The procedure under the proposed Act will largely increase the work of the Court, an essential feature of the Act in the public examination of the bankrupt in every case. During the last three years there have been on an average over forty petitions presented each month, which under the proposed Act would entail an equal number of public examinations, for the taking of which the time and place of sittings in insolvency would be wholly inadequate. The work of the Court under the English Act, or, in an extension of them, may be considered proper, in regard with only a small number of cases, but the work of a formal nature, such as taking such examinations in the proposed case, or taking receiving orders and other work of a similar nature, relegated to an officer of the Court. In any case, whether the public examination be taken by the Court or by an officer, the provision in section 46, by which the report of examination may be signed by the debtor, might, with advantage, be omitted, as it would involve not only the loss of time and labour by reading over and interpreting his statement to a Native witness, but, especially in the case of a debtor subjected to a searching examination, may result in a refusal to sign the notes as taken down or an endeavour to retract previous admissions or statements.

Unclaimed dividends.—The proposed Act provides (section 132) for the payment of any unclaimed dividends under it to the bankruptcy estates account, but omits the provision contained in the corresponding section of the English Act as to the disposal of the unclaimed dividends under the present Act. These unclaimed dividends in Bombay amount to upwards of eight lakhs, of which between a quarter and half are in respect of proved claims in estates in which redistribution has been actually made under Act XXVII of 1874, and which cannot be further distributed under any Act now in force. These unclaimed dividends are not paid in respect of debts admitted by creditors in their schedules as valid, but which have not been proved and are for the most part unprovable; and it is doubtful whether these dividends can be distributed under the Act of 1874. Section 7 of Bill No. 3 of 1881, which was intended to remedy the state of circumstances, has never become law, and it therefore seems necessary that some means of dealing with these funds should be provided by the proposed Act. The interest upon the first class of these funds at least might be applied to meet the general purposes of the Act; otherwise there may be a difficulty at first in working the proposed Act, unless a very high scale of fees is adopted.

Appointment of Official Receiver.—Under the present Insolvent Act the Official Assignee can only be removed from office in the cases specified in section 18. By the proposed Act the removal of the Official Receiver will depend solely on the pleasure of the Chief Justice. This does not appear to be any new way the person of the Official Receiver should be less independent than that of the Official Assignee, or his tenure of office less secure.

A few remarks dealing with some of the sections in more detail are annexed.

Appendix

Section 2. Regarding application of section 5 to England.—Section 5 of the proposed Act is applicable to England, but nevertheless may arise in some cases where one of the parties to a trust is a trustee in India. It is not some provision necessary to reserve the jurisdiction for the Court in such cases.

Section 21 (2).—The committee of responsibility in every well-organized body will be responsible for the management of the affairs of the body, and in cases in which an order is made under section 21, the committee will be responsible for the management of the affairs of the body.

In cases in which the Official Receiver is acting, reference to the Court for necessary powers and authority will be more satisfactory and cause for less delay than to committees of creditors.

See H.A. 12 Vol. 2, p. 21, s. 28

In the event of such a case as the following might be added to section 21 (2).—

"by and with such notice to such creditor as the Court may think fit to direct."

Section 24.—As has been already pointed out, the value of this section would be very greatly increased if it enabled debtors who are liable to Native States to be also included.

In any case, however, the section would seem to be incomplete, as it does not distinctly provide for the case of a debtor who may have actually absconded from the local jurisdiction of the Court to some other part of British India, but only deals with the case of a debtor who is "about to abscond with his property."

Section 31 (1).—**Municipal rates.**—Municipal dues, &c., are at present only payable in cash.

Sub-section (5).—**Interest after payment of principal in full.**—As decrees in India carry interest at 6 per cent, in the same way interest after the receiving order should be allowed in India at present also.

Section 36.—Section 26 of the proposed Act gives a landlord the power to exercise, with certain restrictions, his right of distress upon the property of the bankrupt for rent due. This right was taken away by the present Act, and the change will considerably hamper the Official Receiver when an estate first comes to his hands. Landlords, on the insolvency of their tenants, often put padlocks on the godowns or premises let to them, and claim a lien for rent, and as rent in Bombay is heavy, and the value of the goods so locked up very small, such claims, even under the present law, are not easily disposed of. The proposed change is, we think, to be deprecated; but if it is considered that the landlords should have any preferential claim, it would be more convenient to allow a preferential claim for two months' rent not exceeding the value of the goods on the premises let by them) under section 31, and leave the law otherwise unchanged.

access to the books of the insolvent. It should be further arranged that an experienced and trustworthy staff of Native *mehltas* or accountants should be maintained on the staff of the Court (either attached to the Official Receiver or Trustee), through whom reliable translations and extracts from books kept in any of the Native languages could be obtained. Great difficulty is experienced in obtaining information of this character under the existing law, and a creditor employing an outside *mehla* for the purpose of searching a debtor's accounts always runs the risk of the man being bought over by the other side.

Section 88 (3).—It appears to the Chamber somewhat anomalous that a Judge of the Small Cause Court should not have the same power to commit for contempt as is granted to the Court under section 23, clause (4). The omission of clause (3) is accordingly suggested.

Section 103.—The Chamber would be in favour of raising the limit for small bankruptcies from Rs. 3,000 Rs. 5,000. In estates with a large estate it is very unlikely that cases of fraudulent books, &c., will occur requiring the more complicated machinery of the previous portions of the Act; nor does it seem necessary that the examination of the debtor be insisted upon as provided under clause (c).

From H. BARRY, Esq., Under-Secretary to Government, Bombay, to Secretary to Government of India, Legislative Department,—(No. 784, dated 5th February, 1886).

With reference to your letter No. 113, dated the 18th ultimo, I am directed to forward for submission to the Government of India, copy of the letter from the Acting Prothonotary and Registrar of Her Majesty's High Court, Bombay, No. 21, dated the 28th of January, and its accompanying remarks regarding the draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India.

From G. H. FARRAN, Esq., Acting Prothonotary and Registrar, High Court, Bombay, to Chief Secretary to Government, Bombay,—(No. 21, dated 28th January, 1886).

With reference to your letter No. 105 dated the 1st July, 1885, I am directed by the Hon'ble the Chief Justice to forward the accompanying report on the draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India prepared in accordance with his Lordship's directions, and to state that the Hon'ble Mr. Justice Bayley, who has been for some years presiding over the Insolvent Court, approves generally of the same.

From G. H. FARRAN, Esq., Acting Prothonotary and Registrar, High Court, Bombay, and C. A. TURNER, Esq., Official Assignee, Bombay, to the Hon'ble the Chief Justice, Bombay.

In accordance with your Lordship's directions, we have the honour to submit the accompanying remarks on the draft Bill to amend and consolidate the law of bankruptcy and insolvency in British India.

Remarks

Protection of creditors.—The proposed Act, which is principally taken from the Bankruptcy Act of 1883 now in force in England, where in payment for debt it has been a success, provides that the receiving order shall have the effect of protecting the debtor from the effect of any debt payable in bankruptcy. It does not contain any provision as to the part of creditors at this stage, but deals only with the granting or withholding of a final discharge. In Bombay, where in payment for debt it has been a success, it is provided and a protection is afforded by the vesting order under the present Act, the chief object of the majority of insolvents is to obtain immunity from arrest by means of a *receiving order* and afterwards by obtaining their personal discharge under section 17, after which they but rarely succeed in obtaining a final discharge; while the principal object of the opposing creditors is to prevent or impede from obtaining such immunity, in order that he may be able to secure his debt by making use of his power of arrest. A practical result would be that the large proportion of petitioning debtors who come to the Court for the purpose solely of obtaining protection from arrest would have no object in proceeding with their petitions, and would probably prefer to take any further steps after the receiving order was made. To remedy this it is suggested that the Court should have power both (1), to dismiss petitions for want of prosecution, and (2), to annul such a discharge of the receiving order under section 8 (1), if it gives protection from arrest. It would also seem necessary that the Court should have power to direct the discharge from jail of a debtor imprisoned in connection with the making of the receiving order; there does not appear to be any provision to that effect in the proposed Act.

Adjudication of bankruptcy.—The change made by the proposed Act with respect to the adjudication of bankruptcy is highly a valuable one. Under the provisions of the Act in respect to that subject it will be possible to have debtors adjudged insolvent before they have had time to dispose of all their property, and creditors will in all probability make use of these provisions more and more and the Act found to work well. It is very important that creditors and insolvents should make the statement required by section 15 and (2) come up for the public examination required by section 16. Debtors who have been adjudged insolvent almost invariably abscond from Bombay into Native States, and there is no power under the present Act to compel their return. Such a power extending to the whole of British India, given by section 21 of the proposed Act, but as the opposing debtors must give their address to Native States, it would largely increase the efficacy of the Act if it were found possible to extend that power to Native States also.

Composition with creditors.—The change made by the proposed Act with respect to composition with creditors is also a valuable one. The present Act is silent on the subject, and the result is that documents purporting to be assignments in favour of creditors, executed just before the date of the vesting order are often set up with the object of either enabling the insolvent to evade the law, or of keeping from the Court all power of investigation the insolvent's affairs, even though an acquiescence of creditors may desire such investigation. Considering, however, that the public examination of debtors will in many cases involve the disclosure of affairs of creditors, which they may naturally object to be made public, power might be given to the Court in cases of composition with creditors to dispense with the public examination of debtors when a sufficient majority of creditors assent or consent to it.

Property of bankrupt.—The words of section 28 (P), which deal with the property of the bankrupt, are not so wide as those of section 7 of the present Act, and it is important, especially when dealing with property in the Native or outside British India, where the law is imperfectly understood, that the words of the Act should of any and timely cover the property of the bankrupt, whether within British India or without.

Discharge of bankrupt.—Under the present Act there are two sorts of discharge that can be granted to an insolvent by the Court: (1) freedom from personal imprisonment for debt, and (2) freedom from liability or attachment of property. It is one of the greatest faults of the present Act that a separate application has to be made for each, and the Court at the hearing of the matters of an insolvent's petition under section 35, where all the facts regarding his conduct are before it, makes no order as to the latter but only as to the former sort of discharge. In Bombay the true policy of the debtor to come to the Court is to obtain his personal discharge, and the object of an opposing creditor is either to force the insolvent to buy off his opposition or to induce the Court to dismiss his petition. The reason is that a creditor in Bombay in opposing an insolvent is

invariably working in his own interest and not in that of the general body; and he considers that if the petition is dismissed he will succeed in obtaining a greater portion of the insolvent's property than if it were distributed by the Official Assignee. The power of dismissing petitions given by section 47, and used as a penalty for misconduct, encourages this system. The proposed Act will effect a great improvement in this respect, as under it the Court will consider the whole question of the insolvent's course of dealing and conduct, and will either grant him his discharge (conditional or otherwise), or punish him under the Act itself.

Penalties.—The provisions of sections 27, 45 and 46, which deal with penalties and punishments, are much more severe than in the present Act. It may be noted that a bankrupt does not under them obtain an unconditional discharge more than once, and, if made bankrupt, he is liable to be punished by imprisonment if he obtains credit to the extent of Rs. 200 without informing his creditors. There is a class of penalties under the English Act which has been omitted from the proposed Act, namely, disqualification of a bankrupt to hold certain offices. It, however, seems desirable that no penalty should be attached which may have the effect of causing the mercantile community to regard bankruptcy as a stigma, which in Bombay, since the share companies have to a great extent ceased to do. And in this manner would appear advisable to make the disability to hold certain positions which may be regarded as a consequence of the result of bankruptcy.

Decrees against bankrupt.—The principal remedy in favour of the creditors against the bankrupt is a punishment often enforced in England in cases where no adequate forthcoming in the bankruptcy. The practice in Bombay has been to pass such a decree in every case, and in ordering the great facilities bankrupts have in this country for concealing their property from the Court, this practice seems a good one, as affording a ready way of recovering from the bankrupt after his discharge property that he may be shown to be possessed of, without having to prove that it was concealed at the time of the discharge. It would probably be found more convenient if such decrees were passed in all cases in favour of the Official Receiver, as a trustee might not be forthcoming some years after the bankruptcy, when required to do so. Such decrees should also, if possible, be exempted from the operation of the law of limitation as provided in the proposed Act, as it would be practically impossible, as well as useless, for the Official Receiver to take the necessary steps for keeping all such decrees alive, and equally impossible to foresee in what cases it would be desirable to do so.

Procedure.—The procedure under the proposed Act will largely increase the work of the Court, an essential feature of the Act in the public examination of the bankrupt in every case. During the last three years there have been on an average over forty petitions received each month, which under the proposed Act would entail an equal number of public examinations, for the holding of which the present provision for sittings in insolvency would be wholly inadequate. The provisions of the proposed Act on the subject of examination of them as may be considered proper, might with advantage be incorporated in the Act, and work of a formal nature, such as taking such examinations in and proposed even to entrusting the taking of such papers with work of a similar nature, relegated to an officer of the Court. In any case, whether the public examination be taken by the Court or by an officer, the provision in section 16, by which the notes of examination are to be signed by the debtor, might, with advantage, be omitted, as it would involve not only the loss of time or minutes by reading over and interpreting his deposition to a Native witness, but, especially in the case of a debtor subject to a searching examination, may result in a refusal to sign the notes as taken down or an endeavour to retract previous admissions or statements.

Unclaimed dividends.—The proposed Act provides (section 122) for the payment of any unclaimed dividends under it to the bankruptcy trustee's account, but omits the provision contained in the corresponding section of the English Act as to the disposal of the unclaimed dividends under the present Act. These unclaimed dividends in Bombay amount to upwards of eight lakhs, of which between two and three lakhs are in respect of moved estates in which redistribution has been already made under Act XVII of 1874, and which cannot be further distributed under any Act now in force. There are under a large extent, and a number of dividends in respect of debts admitted by insolvents in their schedules, and which have not been paid under the proposed Act for the most part irrecoverable, and it is doubtful whether these dividends can be distributed under the Act of 1874. Section 7 of Bill No. 31 of 1881, which was intended to remedy this state of things, has never become law, and it therefore seems not easy that some means of dealing with these funds should be provided by the proposed Act. The interest upon the first class of these funds at least might be applied towards the general purposes of the Act, otherwise there may be a difficulty at first in working the proposed Act, unless a very high scale of fees is adopted.

Appointment of Official Receiver.—Under the present Insolvency Act the Official Assignee can only be removed from office in the cases specified in section 18. By the proposed Act the removal of the Official Receiver will depend solely on the pleasure of the Chief Justice. There does not appear to be any reason why the position of the Official Receiver should be less independent than that of the Official Assignee, or his tenure of office less secure.

A few remarks dealing with some of the sections more in detail are annexed.

Appendix.

Section 2.—Regarding application of section 1 to England.—Section 1 of the proposed Act is made applicable to England, but nevertheless cases may arise in which one or more persons may be jointly or severally liable in the trustee in India. Is not some provision necessary to provide for the remedy for the trustee in India?

Section 21 (2).—The committee of inspection in every case will be appointed, whether or not all events come to cases in which an order is made under section 20, or not (section 21).

In cases in which the Official Receiver reports, reference to the Court for necessary powers and authority will be more satisfactory and cause for less delay than to committees of creditors.

See 11 & 12 Vic. c. 21, s. 23.

In that event some provision in the following might be added to section 21 (2).—

"And with such notice to such creditors as the Court may think fit to direct."

Section 24.—As has been already pointed out, the value of this section would be very greatly increased if it enabled debtors decreed in Native States to be administered.

In any case, however, the Act on would seem to be complete, as it does not distinctly provide for the case of a debtor who may have actually absconded from the local jurisdiction of the Court, or some other part of British India, but only deals with the case of a debtor who is "about to abscond with a view to escape."

Section 31 (1).—Municipal rates.—Poor-law dues, &c., are at present only entitled to dividends.

Sub-section (5).—Interest after payment of principal in full.—As decrees in India carry interest at 6 per cent., in the same way interest after the receipt of principal should be allowed in India at 6 per cent. also.

Section 36.—Section 36 of the proposed Act gives a landlord the power to exercise, with certain restrictions, his right of distress upon the property of the bankrupt for rent due. This right was taken away by the present Act, and the change will considerably hamper the Official Receiver when an estate first comes to his hands. Landlords, on the insolvency of their tenants, often put lockets on the goods on premises let to them and claim a lien for rent; and as rent in Bombay is heavy, and the value of the goods so locked up very small, such claims, even under the present law, are not easily disposed of. The proposed change is, we think, to be deprecated; but if it is considered that the landlords should have any preferential claim, it would be more convenient to allow a preferential claim for two months' rent not exceeding the value of the goods on the premises let by them) under section 34, and leave the law otherwise unchanged.

Section 38, clause (2).—The words "wearing-apparel and bedding" are hardly sufficiently wide. In India cooking-pots, &c., are more necessary even than bedding. The words of the Act 11 & 12 Vic. cap 21, section 7, are "wearing-apparel, bedding, and other such necessities."

Section 51 (2).—The distribution of a dividend depends almost entirely on the creditors and not on the trustee.

The words "shall be declared and be payable" might be substituted for the words "shall be declared and distributed."

As to the period of four months prescribed by this section for the declaration of the first dividend, see note for section 99.

Section 57 (2). Allowance to bankrupt.—We think the allowance to a bankrupt should be limited both as to amount and as to duration. The limit we would propose is Rs. 100 per month extending over not more than ten months.

It must be remembered that in all bankruptcies the bankrupt himself has always influence in the liquidation of his estate.

A considerable body of the creditors, either through friendship or relationship, or because they have received, or expect to receive, special preference, are always ready to support the bankrupt.

In large estates there will always be danger of candidates for trusteeship making a bid for the bankrupt's influence by promise of a good allowance if they are appointed.

Some limit of time is necessary, or an insolvent in receipt of a good allowance will be tempted to protract the liquidation of his estate.

Section 61. Official Receiver's report.—Before the discharge of any bankrupt under section 27 of the new proposed Act, the Official Receiver has *in every case* to prepare a report, which has to be taken into consideration by the Court at the hearing of the bankrupt's application under that section. In order to make such reports of any value, the Official Receiver must (in cases of insolvency of traders) have the assistance of experienced Native accountants capable of themselves reading and understanding Native account-books.

Account-books in Bombay are kept not only in different languages and character, but even on different principles, varying according to the particular trade or business carried on by the bankrupt or to the skill or ignorance of the *mohras* employed by him.

The accountants would have to be high class men, well paid, and in the regular employ of the office (not engaged for any particular estate), to ensure trustworthy performance of their work.

The examinations of account-books so made would be of the greatest value both to creditors who might wish to oppose and also to the Court itself at the hearing.

This would, however, seem to be a matter to be dealt with by rules under the Act, and not in the Act itself.

Section 65 (3). We do not consider that this provision can be of any value in India.

Section 67. Investment of moneys.—Under this section investment is made out of the "bankruptcy estates account" generally and not out of the moneys belonging to any particular estates, and the whole interest so realized is appropriated for the general purposes of the Act (section 67 (3)).

Were it possible to distribute the moneys to creditors as quickly as is contemplated in the Act, there would be no great hardship in the present provision. In Bombay, however, considerable sums have always to be reserved to meet the possible costs of the litigation that invariably ensues on any large insolvency proving unsuccessful, and (as has already been pointed out) claims of creditors cannot be quickly adjusted.

It would be hard on creditors that money so locked up should not be invested for their benefit.

Perhaps the simplest way would be to leave the provisions of the Act as they are, and out of the interest accruing under the provisions of this section (67) to allow interest at 4 per cent. on all sums paid into the "bankruptcy estates account" until dividend is declared.

Section 88. It appears from paragraph 29 of the draft "Objects and Reasons" that this section has been put in at the request of the Government of Madras. We do not think that the section can be of any value in Bombay while the High Court and the Small Cause Court are so far apart. It would be necessary to have a special Official Receiver and Registrar, with proper office establishments, to carry on the insolvency business of two separate Courts.

We believe that in 1880 both the High Court and the Small Cause Court of Bombay were opposed to the introduction of the provision.

Sections 92 (1) & 104. Times.—All "times" allowed for the act are far too short, and though full power of extension is given by section 92 (1), yet the times mentioned in the different sections for each Act should, as far as possible, approximate the average time within which such act ought to be done.

There are several reasons why longer times will be required in Bombay than in England—

(1) the Courts sit weekly only;

(2) books of account are always in arrears, especially during the busy season, and take a long time to make up, and only a very limited number of *mohras* can be employed on them at once;

(3) traders of every part always have goods on a way to England or elsewhere, the account-books of which are not received for a considerable time;

(4) no estate of any size can be realized without litigation owing to the invariable attempts made by bankrupts to conceal property or favour particular creditors; and litigation in Bombay is both tedious and expensive.

Section 99. Petition of partners in different Courts.—Under this section we suppose petitions by partners of firms carrying on business in the different Presidency towns would be transferred to the Court in which the first petition was filed, otherwise some provision is required on this point. See also section 13.

Section 101 (3).—Small bankruptcies under Part VII, section 103, might, with advantage, be extended to Rs. 6,000.

Where the gross assets of an estate are not more than Rs. 6,000, it would rarely be worth the creditor's while to attend meetings and take any direct interest in the winding up of the estate, nor will the estate itself stand the expenses of proceeding, incurred by the Act and by the first schedule.

Creditors may of course in such cases wish to have the bankrupt's affairs more expensively investigated and the bankrupt himself punished; but provision is made for this by clause (c) of this section (103).

Section 116 (2).—If the suggestions contained above regarding business to be done before the Registrar be adopted, it might be convenient to provide for the remuneration of that officer also under this section.

Section 120, clause (3).—We could if this provision is sufficient in the case of Native States. Would it not be simpler to allow affidavits to be also made before the British Resident or Consul or Political Agent?

Lien on bankrupt's books of account by solicitors and others.—There have been several cases lately in Bombay of solicitors claiming a lien on receiver's books of account and so making it extremely difficult for creditors to get full and free inspection of them. Such claims might, moreover, be set up in collusion with an insolvent.

Section 121 of the English Act of 1861 abolished claims for lien of an insolvent's books of account, and the same provision was made by a rule under the Act of 1699, there being power under that Act to make the rule.

—See *Late Lec on Bankruptcy*, page 676.

It would therefore seem advisable to put the provision into the Act itself.

I AM directed to acknowledge the receipt of your Letter No. 1011, dated the 14th June, 1887, forwarding copies of the Bill to amend the Law of Bankruptcy and Insolvency in British India, with a Statement of Objects and Reasons, and asking for an expression of the Lieutenant-Governor's opinion and of the opinions of such persons as His Honour might think fit to consult on the progress of the Bill.

The Secretary to the Government of India, No. 1606, dated the 3rd September, 1889, and enclosure.

The Chief Judge, Court of Small Causes, Valencia, No. 68,
dated the 2nd October, 1885,

The Superintendent and Remembrancer of Legal Affairs,
No 901, dated the 9th November, 1882.

Maharaja Sir Jadendra Mohan Tagore, K.C.I., dated the 31st August, 1885

Bahadur Doonga Churni Law, dated the 7th September, 1885

From R. L. UFFOX, Esq., Solicitor to Government of India, to Officiating Under Secretary to Government, Bengal, — (No. 1093, dated 3rd September, 1884)

OPUSCUL.

The Statement of Objects and Reasons very clearly and fully explains the grounds on which the proposed change in the present In-vent Laws are justified, and also in an extremely concise manner the principles which are to be followed in framing a new Bankruptcy Act. I agree in the main with the Dope's and think, and I think it advisable that legislation be supported by an Act of Parliament.

The English Bankruptcy Act is the outcome of an extended experience of years, and has, I think, been properly adapted as a model for the proposed legislation. I have given you the provisions in the English Statute in relation to composition or scheme of arrangement, which have been embodied in the present draft. Act will be found useful or of any practical benefit in this country.

With regard to jurisdiction, I think that up-country matters, who have had more commercial transactions, and whose estates would be more suitably administered in a Bankruptcy Court, should be allowed to petition to a Bankruptcy Court of the Presidency in which they have carried on business, and such Court should be vested with powers to adjudge such persons bankrupt on their own petition if it think fit, the powers to adjudge being discretionary, to be exercised according to the circumstances of the case. The objection to such a procedure would naturally be that it would be a hardship upon creditors living at a distance to follow the proceedings in a Bankruptcy Court, but such a hardship must often occur where a debtor carrying on business in Calcutta is adjudicated by the High Court of Calcutta, and has creditors up-country as well as in the adjacent Presidencies.

(Signed) G. V. PAVL.

Address: _____

With reference to letter No. 2946, dated 9th September, 1885, from the Under Secretary to the Government of Bengal, calling my attention to No. 1342 J.D., dated 8th July, 1885, I gave the matter a first consideration with my colleagues, to say that we believe that the provisions of the draft Bill to amend and consolidate the law of Bankruptcy and Insolvency in British India are calculated to be of great benefit to the country.

We also approve of section 88, which empowers the High Court, from time to time, to set aside a judge of the Presidency Small Cause Court, small civil suits, matters thereon, and not, but we do not consider it would be beneficial to deprive a judge of the Small Cause Court of the power to try such matters relating to bankruptcy and insolvency such authority as he has in the exercise of his ordinary jurisdiction under section 84 of the Presidency Small Cause Courts, Act, 1882, to punish for contempt.

From T. T. ALLEN, Esq., Superintendent and Remembrancer of Legal Affairs, Bengal, to Chief Secretary to Government, Bengal,—(No. 904, dated 9th November, 1889).

In reply to your office No. 1337 A.D., dated 8th July last, I have the honour to say that the draft Bill on Bankruptcy Bill is applicable to the presidency-town where at present a similar law is administered by the High Court in its original jurisdiction. As I have no knowledge or experience of the working of the existing law, I am unable to form an opinion as to the necessity for, or improvements effected by, this bill.

2. As to the multifarious, I consider the present bill utterly and entirely un-suitable, but as there appears to be no intention to make it current there, this is no detraction from its merits.

From MAHARAJÁ the HON'BLE SIR JOTENDRO MOHUN TAGORE, K.C.S.I., to Officiating Under-Secretary to Government, Bengal,—(dated 31st August, 1885).

I HAVE the honour to acknowledge the receipt of your No. 1310 J.D., dated the 8th ultimo, forwarding, for the expression of my opinion on it, copy of a draft Bill to amend the Law of Bankruptcy and Insolvency in British India, and in reply to submit the following remarks for the consideration of this Honourable Lieutenant-Governor of Bengal.

2. The primary object of the project is consolidation. The law of bankruptcy and insolvency, as now current in India, is scattered in different Acts, which are in some respects defective, and in others discordant or not convenient; and the Bill under notice proposes to reconcile differences, to supply omissions, to remove defects, and generally so to amend and alter the present law as to make it fully suited for the requirements of the day. In so far the project is worthy of commendation. The opportunity has also been taken to make it accord with the last English law on the subject, and provision has been made so to transfer cases from Indian to English Courts as to cause no inconvenience.

3. It is not necessary for me, however, to notice all the alterations, particularly as the honourable and learned gentleman who has drafted the Bill has fully and clearly treated the subject in great detail in his Statement of Objects and Reasons. I desire, therefore, to confine myself here to only those points which appear to me to require further consideration.

4. In the Civil Procedure Code Act (XIV of 1882, sections 336 and 344), relief for bankruptcy is made dependent on a preliminary arrest or imprisonment; no debtor can obtain the benefit of the law until he is taken up under an execution warrant. This mode of making relief accessible only through the gates of a prison to honest but unfortunate debtors is highly objectionable, and clause 10 of section 7 of the Bill does well in doing away with it in the case of persons residing or carrying on business within the jurisdiction of the Presidency Courts for at least a year. The limit of time fixed, however, appears to me to be too long. There are many causes which may, and not infrequently do, bring on insolvency within a much shorter time, and that without any dishonest or fraudulent motive on the part of a debtor; and in such cases it is not at all desirable to insist upon a preliminary punishment. The law provides ample safeguards against fraud, and the punishment should come when the fraud is laid bare in the course of enquiry, and at the time of granting the discharge, and not precede enquiry. The provision, moreover, appears to me to be totally ineffectual as a salutary measure. A debtor who becomes insolvent in six months' time can easily avoid going to jail by getting up a creditor to petition against him, and the law is at once defeated. This applies likewise to the first part of the section, which insists upon lodgment in prison as a *sine qua non* in the case of an ordinary debtor. It makes a provision which can always be circumvented, except in the improbable contingency of a debtor being so unfortunate as not to be able to get a creditor to petition against him. Under these circumstances, I am respectfully of opinion that the clause in question should be divested of the conditions attached.

5. Clause (1) of section 26 gives power to the Court to compound with the debtors to an insolvent estate; and this is as it should be, inasmuch as, however, such compositions must, as a matter of course, be effected by the Receiver or the Trustee of the estate, and more frequently by his subordinates. It would be an advantage if provision were made to give an opportunity to the creditors, or the Committee appointed by them, to appear in Court and show cause why petition for compound should not be made in the way proposed. Instances are well known of such compositions in connection with charge sales of estates having been made in a manner injurious to the interests of creditors.

6. Clause (5) of section 26 appears in effect as it stands. There should be some provision made with reference to any counter claim that the person concerned may have against the debtor.

7. Among the facts which would disqualify a bankrupt from getting immediate discharge, mention is made of absence of books of account for three years immediately preceding his bankruptcy clause (a) of section 27(3). This would suggest the idea that the discharge would be withheld or delayed if the books of account are not forthcoming, or should extend only to one or two years. Such cannot, however, be the intention of the law in cases in which insolvency supervenes after one or two years' trading. If related to merchants and traders, the law should be so worked as to imply a period of not less than three years in the case of persons carrying on business for a long time, and for the whole period in the case of persons who have carried on business for less than three years; as regards persons other than merchants and traders, it may be a grave hardship to demand regular books of accounts. Such people do not ordinarily keep any account of their income and expenditure; they live upon what they get, and are satisfied. They may, however, be overtaken by a sudden misfortune, such as a decree of a Civil Court calling upon a person of this class to pay heavy damages, for which he might be forced to seek the benefit of the Insolvency Court, and in such a case it would be cruel to call upon him to produce regular books of accounts, and on default subjecting him to punishment. The Court should be left perfectly free to exercise its discretion as to whether the omission is due to unavoidable or accident or circumstances, or to improper motive. The word 'shall' in line six of the clause, page 16, leaves no room for such discretion.

8. I look upon clause (g) of the same section as calculated to operate harshly. There are many merchants and traders now in Calcutta who have been under the necessity through their misfortune, without any fraudulent or dishonest action, of taking the benefit of the Insolvency Act two, three, or more times, and there is no valid reason why men of that class should not readily obtain their discharge under the proposed Bankruptcy Act. The broad line of distinction between honest misfortune and fraud should never be lost sight of.

9. Clause (2) of section 16 appears to contravene to a certain extent the provisions of the current law of the country on the subject of pensions. Section 14 of Act XXIII of 1871 says, "No money due or becoming due on account of any such political considerations or past services) pension or allowance shall be liable to seizure, attachment or sequestration by process of any Court in British India at the instance of a creditor for any demand against the pensioner, or in satisfaction of a decree or order of any such Court." This provision is repeated in several subsequent Acts, and appears last in section 266 of Act XIV of 1882, and no circumstances have since transpired to suggest a departure from it. Pensions are in theory benevolences, and to render them liable to seizure by a decree of a Court is to convert charity into a legal claim. They are granted by Government to provide for the support of persons who have rendered good service for extended periods, and are liable to stoppage at any time at the will of the donors, and should not on any account be treated as a fixed asset.

10. When the Bill regarding the amendment of the Courts of Small Causes in Presidency towns was under consideration a few years ago, the public feeling was strongly expressed against a section in the Bill which proposed to vest those Courts with recovery powers amounting to Rs. 1,000, and in compliance with the wishes then expressed the section was withdrawn. Section 88 of the Bill now under notice renews the project in a modified form, that is, by delegation of powers to a High Court, but removes the money limit. There are cases in which such delegation would be useful, and I would respectfully urge that the limit of value should be fixed by law and not exceed Rs. 1,000.

From BABU DOORGA CHURN LAW, to Officiating Under-Secretary to Government, Bengal,
—(dated 7th September, 1885).

I HAVE the honour to acknowledge the receipt of your No. 1341J-D., dated the 8th July last, forwarding copy of a draft Bill to amend the law of Bankruptcy and Insolvency in British India, and requesting an expression of my opinion on it.

2. In reply, I beg to submit the following remarks on the Bill for the consideration of His Honour the Lieutenant-Governor of Bengal.

3. Time was when a bankrupt or trader who seceded himself, or did certain act with intent to defeat or delay his creditors, was looked upon as a criminal or offender, but that time has long since passed away, and the aim of legislation has of late been to afford every protection to honest but unfortunate debtors. All the insolvency and bankruptcy laws now current have been framed with this object, and the present attempt is to effect a general unification of the law alike in the interests of general trade, and the principles of humanity and justice. The opportunity has also been taken for a consolidation of the law so as to make it most conveniently workable. The occasion has moreover been utilized to make the Indian Act accord with the latest English law on the subject, and provision has been made so as to transfer cases from India to English Courts as to cause no inconvenience. The necessity for these amendments and improvements, it is stated in the "Draft Statement of Objects and Reasons," has been frequently of late years pressed upon the attention of Government, and in my humble opinion Government does well in taking up the measure.

4. The bulk of the Bill is made up of the law now in force, with such alterations and improvements as the experience of the last four and thirty years during which the Statute 11 & 12 of Victoria, 21, has been in operation in the Presidency Courts has suggested; and as the honourable and learned gentleman who has drafted the Bill has fully and clearly explained the nature and drift of the alterations in his Statement of Objects and Reasons, there is no need for my noticing them. I shall, therefore, confine myself here to only those points which appear to me to be susceptible of further improvement.

5. For expeditious and satisfactory liquidation of an insolvent estate, it is necessary that power would be given to the Court to compound with the debtors to it, and this is done in clause (f), section 26. Inasmuch, however, as such compositions must, as a matter of course, be effected by the Receiver or the Trustee of the estate, and more frequently by his subordinates, it would be an advantage if provision were made to give an opportunity to the creditors, or the committee appointed by them, to appear in Court and show cause why a particular composition should not be made in the way proposed. Instances are well known of such compositions in connection with large insolvent estates having been made in a manner injurious to the interests of creditors.

6. The provision made in clause (5) of section 23 is necessary and proper, but as it stands it appears imperfect. There should be some provision made with reference to any counter-claim that the person concerned may have against the debtor. In all such cases the counter-claim should be fully satisfied before any demand is made. In other words, the demand should be limited to the difference between the claim and the counter-claim.

7. I am respectfully of opinion that clause (a) of section 27 (i) is likely to act with hardship. In it mention is made of absence of books of account for time year immediately preceding a bankruptcy as a ground for withholding immediate discharge. This would suggest the idea that the discharge would be withheld or delayed if the books of account forthcoming should extend to one or two years only. Such cannot, however, be the intention of the law in cases in which merchants experience after one or two years' trading. In regard to merchants and trader, the law should insist on a period of not less than three years in the cases of persons carrying on business from a long time, and for the whole period in the case of those who have entered on business for less than three years. This should, however, not apply to dealers other than merchants or traders. Such people do not keep any account of their revenue and expenditure; they live upon what they get, and are satisfied. They may, however, be overtaken by a sudden misfortune. A decree of a Civil Court may condemn a person of this class to pay heavy damages for which he may be forced to seek the benefit of the Insolvent Court, and in such a case it would be cruel to demand upon him to produce regular books of account, and, on default, subjecting him to punishment. The Court should be left perfectly free to exercise its discretion as to whether the omission is due to unavoidable or accidental circumstances, or to dishonest intention. The word "shall" in line 6 of the clause, p. (15), leaves no room for such discretion.

8. The provision made in clause (g) of the same section also appears to me as calculated to operate harshly. There are, I believe, many cases of merchants and traders in the Presidency towns in which men have been under the necessity, through sheer misfortune, without any vicious or dishonest action, of taking the benefit of the Insolvent Act more than once, and there is no valid reason why men of that class should not readily obtain their discharge under the proposed bankruptcy Act. The broad line of distinction between honest misfortune and fraud should be very rigidly fixed in all such cases.

9. Clause (f) of section 16 provides for the stoppage for the benefit of creditors of the pay and allowances of persons in the service of Government who may happen to become bankrupts, but the next clause appears to contravene to a certain extent the provisions of the current law on the subject of pensions. Section 11 of Act XXIII of 1871 says: "No money due or becoming due to a person on account of any such judicial considerations or past services, pension or allowance shall be liable to arrest, attachment, or sequestration by process of any Court in British India at the instance of a creditor for any demand against the pensioner, or in satisfaction of a decree or order of any such Court." This provision has been repealed by several subsequent Acts, and appears to be in section 263 of Act XIV of 1882, and no circumstances have since arisen to suggest a departure from it. Pensions are in theory benevolent, and to render them liable to seizure by a decree of a Court is to convert them into a civil right. They are granted by Government to provide for the support of persons who have rendered valuable further work after rendering good service for extended periods as provisions for old age, and are liable to stoppage at any time at the will of the donors, and should not, as any account, be treated as a civil asset.

10. Section 88 of the Bill invests the High Courts with the power of delegating their powers for certain purposes to Presidency and District Courts. This is indirectly a revival of the clause in the Bill for the Presidency Court of Sudder Causes which proposed to invest those Courts with insolvency jurisdiction. The public feeling against the project was then strong, and it was therefore withdrawn. The modified term in which it is now proposed appears to me to be not only unobjectionable, but likely to prove very useful. I would respectfully urge, however, that the money limit of the jurisdiction should be fixed by law, and not left to the discretion of the High Courts. In matters of jurisdiction the law can never be too precise.

From E. HICKER, Esq., Secretary, Calcutta Trades Association, to Secretary to Government, Bengal,—(dated 14th December, 1885).

I HAVE now the honour to place before you, for submission to His Honour the Lieutenant Governor, the views of the Committee of the Trades Association on the Bill to amend the law of Bankruptcy and Insolvency in British India.

2. It would be impossible, the Committee feel, to overrate the importance of the proposed Act to the trading community throughout India; they have consequently given to its provisions the most careful consideration, and are unanimously of opinion that the measure, as a whole, will afford assistance and protection to both debtor and creditor.

3. In order, however, that the protection to be given by the Act may be adequate and complete, the Committee would beg to suggest that the Government of India might be moved to amend the Bill in so far as it deals with the following important points, which appear to be deserving of further consideration.

k. In regard to this section, the Committee are of opinion that the jurisdiction clause should be extended

in all cases in which the High Court has jurisdiction. For example, a person ordinarily resident in the Madras is liable to be sued in the High Court in respect of contracts made by him in Calcutta, but a Calcutta firm holding a decree of the High Court against such a person could not, under the Bill as drawn, avail itself of the provisions of the Bankruptcy Act. This seems to the Committee to be a serious anomaly, and one which will materially lessen the usefulness of the Act.

5. The Committee is of opinion that the

amount to be paid to clerks under this section should be equivalent to three months' salary. To limit the amount to five hundred rupees would to inflict an undeserved hardship on a large number of employees. Not a few firms employ assistants whose salaries range from Rs. 200 to Rs. 500 a month, and who belong to a class of employees who contribute in no small degree to the proper carrying on and success of a business, and it appears in the Commission's further consideration of this portion of the Bill. They should be granted

in this section "three months" should be substituted for "one year." The powers of a landlord are sufficiently great, and the existing law provides him with ample facilities for recovering his dues, and for these reasons the Committee submit that, if he should be permitted under the proposed Act to levy distress "for one year's rent due prior to the date of the order of adjudication," he will be receiving an undue preference over all other creditors. The Committee would, therefore, urge that the period for which he may recover under this section should not exceed three months.

7. As to the second section, the Committee would observe that the Bill as drawn leaves the order and disposition of a case still open to be deferred by the ruling in *ex parte Guthrie Morgan*, which decided that the absence from the country of a partner in an insolvent firm prevented the clause in the Insolvency Act applying, on the highly technical ground that property held by the true owner in the possession of such a firm was not in the sole possession of the partner or partners who happened to be resident in this country.

The Committee find that the suggestions contained in this letter will meet with the approval and support of His Honorable the Lieutenant-Governor.

From J. O. Murray, Esq., Under-Secretary to Government, North-Western Provinces and
Oudh, to Secretary to Government of India, Legislative Department,—(No. 998—VII.
78-7, dated 14th November, 1889)

We allude to your letter No. 1049, dated the 17th June, 1885, asking for opinions on the provisions of

Note by David Redden, 1997, at the intersection, North West
 9th Street and 10th Street, at 6th Street, at 10th Street.

Robert A. 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 26

2. As the Act is not to be extended to these Provinces at present, the Lieutenant-Governor and Chief Commissioner think it unnecessary to add any remarks on the provision of the Bill.

Note by Legal Remembrancer to Government, North-Western Provinces and Oudh,—(dated 8th October, 1885).

I HAVE gone through the draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India together with the draft Statement of Objects and Reasons for the same.

I note that in the draft statement it is proposed to apply the bill, if it becomes law, in the first instance only to the Presidency towns and to certain exempted places in Burma.

As regards the North Western Provinces and Oudh we shall have ample opportunity of seeing how the law works before we extend it to any commercial centre. My experience as a Judge leads me to think that it will be some time before we shall require any extension, and that when it is extended we shall need stronger Courts and Courts with more leisure than they at present enjoy.

Many of the large commercial firms in these Provinces have offices in the Presidency-towns, and, as I understand, solicitors would be entitled to present petitions against such firms, so that some considerable portion of the class for whom the Act is intended will be covered by the provisions of the Act.

It is worth noticing that one of the facts being mentioned in Chapter XX of the Civil Procedure Code. The number of applications for insolvency must vary in a considerable manner with fluctuations in the number of applications for execution of decrees. Compared with the year, the percentage of applications for insolvency has sensibly increased from 15 per cent. in 1881 to 35 in 1882, to 37 in 1883 and 30 in 1884. I feel convinced that, in regard to the provisions of Chapter XX now in force, there are still too minute and expensive for the poor insolvent—but for this we should have a still greater number of applications.

With a few alterations the provisions of Chapter XX would meet the present wants of these Provinces, but the present provisions are applicable to those all to them.

I see little use in discussing *verba* of the provision of a Bill which is not to be applied to these Provinces, and I doubt whether I could do so to much purpose. It would need more acquaintance with the customs and wants of Presidency-towns to do so effectually.

From Registrar, High Court, North-Western Provinces, to Secretary to Government, North-Western Provinces and Oudh,—(No. 2701, dated 3rd November, 1885).

I AM directed to acknowledge the receipt of your letter No. 671-VII-782, dated 23rd June, 1885, in the Judicial Office Department, forwarding a Bill to amend the Law relating to Bankruptcy and Insolvency in British India, and requesting the Governor with the Courts open on the subject, and in reply to state as follows:

2. The Hon'ble the Chief Justice has forwarded a minute on the subject direct to the Hon'ble Mr. Herbert, Legislative Member of Council.

3. The Hon'ble Mr. Justice Straight regrets he has had no leisure to consider the provisions of the Bill or offer any remarks thereon.

4. The Hon'ble Mr. Justice Birchurst believes it is not intended that any Court in these Provinces shall, for the present at all events, have jurisdiction under the proposed Act, and he therefore refrains from offering any remarks on the proposed legislation.

5. The Hon'ble Mr. Justice Fyrell also has no remarks to offer on the Bill.

From C. L. TUPPER, Esq., Officiating Secretary to Government, Punjab, to Secretary to Government of India, Legislative Department,—(No. 974, dated 26th November, 1885).

- (1) Judges of the Calcutta High Court (No. 2582, dated 13th August 1885).
- (2) Governor of Assam (No. 370-D.A., dated 21st September 1885).
- (3) Bunssee Lal Ram Rattan, Ruler of Bikaner (No. 982, dated 2nd September 1885).
- (4) Rai Mohi Ram, dated 5th August, 1885).
- (5) Rai Kishan Lal, Honorary Magistrate, Delhi (dated 10th October 1885).
- (6) Rai Bihulur, Kishan Singh, Honorary Magistrate, Amritsar (dated 1st September 1885).
- (7) Choti Lal, Honorary Magistrate, Amritsar (dated 16th October 1885).
- (8) Lala Lal, Honorary Magistrate, Amritsar, (dated 1st October 1885).
- (9) Baggin Lal, Honorary Magistrate, Amritsar, (dated 1st October 1885).

With reference to your letter No. 1012, dated the 17th of June, 1885, I am directed by the Lieutenant Governor to inform, for the information of the Government of India, the members of the Council, and the members of the Council, who have been consulted upon the draft Bill to amend the law of Bankruptcy and Insolvency in British India.

From T. G. WALKER, Esq., Registrar, Chief Court, Punjab, to Officiating Secretary to Government, Punjab,—(No. 2582, dated 13th August, 1885).

In reply to your letter No. 651-S, dated 13th July, 1885, forwarding, for the opinion of the Judges, a copy of a Draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India, I am directed to say that as it is proposed to limit the application of the Bill to the Presidency-towns and certain other commercial centres, the Judges have no remarks to offer on the Bill.

From E. P. HENDERSON, Esq., Government Advocate, Punjab, to Officiating Secretary to Government, Punjab,—(No. 370-D.A., dated 21st September, 1885).

I HAVE the honour to acknowledge your letter No. 651-S of 13th July last, forwarding for opinion draft Bill to amend the law of Bankruptcy and Insolvency in British India.

2. I observe that the Act only constitutes by its direct operation four Courts of Bankruptcy, namely, the High Courts of Calcutta, Madras and Bombay, and the Court of the Revenue of Bikaner. I also observe that while power is taken to confer upon local Governments authority, with the previous sanction of the Governor-General in Council, to constitute other Courts of Bankruptcy in the territories administered by them, the insolvency sections of the Punjab Laws Act (18-2) have not been repealed.

As moreover I am now, and have been for some time past, much pressed with important references, I trust that I may be permitted to refrain from a discussing in detail a measure which is not intended to apply to this Province, and which appears to me to be far too advanced and framed for the state of things prevailing here.

From BUNSEELAL RAM RATTAN, Ruler of Bikaner, to Under-Secretary to Government, Punjab,—(No. 982, dated 2nd September, 1885).

As directed in your letter No. 841-S, of 3rd July 1885, which you have very kindly sent for my remarks that I may wish to offer, I have the pleasure to state for your information that the Draft Bill to amend the law of bankruptcy and insolvency in India is worth of maintenance, and that the draft Statement of Objects and Reasons is worth of consideration.

I beg to suggest to afford the following remarks after full examination of the documents you have so kindly sent.

1st.—The cost of Court for advertising notices, &c., should be defrayed from the estate concerned, but the Court expenses should not exceed some fixed allowances at the rate of percentage which after full consideration the Legislative ought to fix.

2nd.—In India there are lot of persons who, in anticipation of being insolvent give up their estate, cash and property to their sons or brother, and they themselves remain to be insolvent. In this case the Legislature should pronounce some kind of punishment to be awarded to such insolvent.

3rd.—To avoid re-occurrence of insolvent the Legislature should consider and order some kind of distinguished mark to be worn by the bankrupt, in order, if the bankrupt go to another country or city, he may soon be recognized as such a man, as in India there are many men who are dealing in this way, i.e., open a shop in a city, and, while their trade became popular, they abstract lot of money by sending it to their homes or making it away otherwise, and afterwards declare themselves as insolvent. If some distinguished mark be ordered to be worn by the insolvent, there will be a kind of check over them.

4th.—In section 21 I beg that the committee should consist of 8 members, i.e., 4 from among the creditors and 4 who do not any way mixed in the case, but know the custom of the city, and the Judge should take their opinion before passing any order on the bill.

5th.—In my opinion in section 38 the hereditary rights, such as villages or other landed property, should be included in the estate which must be sold too and assessed in the administration leaving a necessary portion for the insolvent only.

I beg to return the papers received with your letter under reply.

From RAJ MEHA RAY, to Secretary to Government, Punjab,—(dated 27th August, 1885).

I HAVE gone through the draft Bill received with your letter No. 8448, of the 30th July, and am very glad to come to know that steps have been taken to make up the deficiencies which have been observed during the last 35 years. Handing over the matter to the committee of creditors whose interest is chiefly concerned in such proceedings is a great improvement to bring this law to the point of completion, and I hope it will satisfy those who were sulking at the introduction of such a defective measure as that of the Insolvency and Bankruptcy. As far as my experience is concerned, I would beg to state that Part VII of the Bill, regarding the small bankruptcies, would not work efficiently in a Province like the Punjab until the educated party takes lead in the way of improving the commercial condition of the country. Of course it will be received with great satisfaction in Presidency and other towns where the people by means of their extensive education are sufficiently enabled to understand the objects and reasons of the measure in question. I would, however, beg to suggest that for such cases the qualifications of trustees must be prescribed, as they have to manage the estate without the control and supervision of those whose interest they are to guard.

2. In conclusion, I request that the Insolvent Estates Courts must be very strict in awarding punishment to the guilty debtors, as the number of rejected applications clearly shows the bad motive with which they have often been led to defraud their money-lenders.

From RAMKISHAN DAS, Honorary Magistrate, Delhi, to Under-Secretary to Government Punjab,—(dated 25th September, 1885).

IN reply to your No. 811, dated 30th July last, enclosing a draft Bill on the law of Bankruptcy for opinion, I have the honour to submit the following remarks.

In my opinion the Bill should, when enacted into law, be made applicable to the Punjab and North-Western Provinces, and the District Courts empowered to exercise authority conferred on "the Court" under it. The provisions of the Bill, though based on the English law, are not so very abstruse or intricate as to be difficult of comprehension or to be peculiarly suitable to any particular town or city. They are catholic and general in their character, and may advantageously be extended to the Mufassal. Uniformity of principle certainly so far as the British Indian Empire is concerned—necessitates the existence of one and the same law for identical cases and circumstances wherever they may occur in that empire. The provisions as to the voluntary management by creditors and as to appointment of trustees and the conduct of business by the insolvent under the supervision of trustees or of the committee of inspection are of new or strange. They are acted upon every day in this part of India. Indeed, there is hardly a case in which resort is not had to them as the most efficacious machinery for realising assets for distribution. I would therefore very strongly urge the extension of the Bill to the Mufassal.

SECTION 3 (b) and (c) may be fused into one clause. There is no meaning in keeping them separate.

SECTION 8 (2).—There is no benefit likely to accrue to the insolvent's estate by allowing a secured creditor to realise or deal with his security. Except in cases of English mortgages (as to which even there is considerable doubt), no mortgagee can exercise the power of sale, except through the medium of a Court, and why he should be allowed to bring a suit to sell the property and thus entail more costs, which are after all to come out of the insolvent's estate, is incomprehensible to me.

SECTION 15 (2).—For 3 days I would substitute 10 days, and for 7 days 1 month. The time mentioned in the section is very little, especially in the case of a creditor who has to enter on very difficult enquiries in order to submit the statement.

SECTION 15 (4).—The word "so" before stating should be omitted. "So" would mean *for this purpose, i.e., for inspecting statement*. The penalty should be general and absolute, and not confined to any particular circumstance.

SECTION 17 (15) AND SECTION 18 relate to the same matter, and with some slight change of language could easily go into one section or clause.

SECTION 25.—This is a very harsh measure and has been strongly condemned recently by Mr. Justice NOBLE. If it is considered advisable to keep it, then there can be no meaning in the limitation of 3 months, which should be expunged.

SECTION 28 (2).—Would *deposits* come under this or not?

SECTION 31.—To this section add "*Barred debts, obligations without consideration—Voluntary bonds* shall not be provable."

SECTION 36 should be omitted and its provisions added to section 31, which is their proper place.

SECTION 38.—Add *executory contracts* which the assignee or receiver may perform.

SECTION 46.—"Or engaged in the Civil service." Omit the word "Civil."

SECTION 48 (5).—Add "Provided that if the party does not agree and feels aggrieved, he may institute a suit for declaration as to quantum of damages which he will be allowed to prove as a debt."

SECTION 48 (6).—"And on hearing such person" modify into "on hearing the trustee or such other person."

SECTION 49.—Add "(f) *Sue debtors*." This power should be conferred on the trustee irrespective of the following section.

SECTION 61.—The word "solicitor" will have to be changed into "legal practitioner" or "pleader."

Adverting to the Statement of Objects and Reasons, it would of course be necessary to obtain the sanction of the British Parliament to ratify the measure. It is of no importance whether the sanction is antecedent or subsequent, but I consider Draft I to be the preferable of the two.

From RAI BAHADUR KALLIAN SINGH, Honorary Magistrate, Amritsar, to Under-Secretary to Government, Punjab,—(dated 1st September, 1885).

WITH reference to your letter dated 30th July 1885, I have the honour to submit my few remarks as to the Draft Bill to amend the Law of Bankruptcy and Insolvency in certain parts of British India, and they are as follows.

2. In Section 3 it is necessary that the British India may be defined, that it may be more clear whether the foreign States comes within the definition. Although the General Clauses Act, I of 1858, defines the British India, but still remains doubtful as to its limits, supposing for instance—*Baluchistan*, &c., &c.

3. In the same section clause (c) is somewhat harder, that by issuing the process of sale in execution of decree cannot be said that the debtor has committed the act of bankruptcy.

4. In Section 5, clause (d) paragraph 2nd, where it is said within a year before the date of presentation of the petition ordinary reside, &c., &c.

The above clause in the section is not clear to fix the period gives rise to a doubt.

5. In the Section 6, clause 1, it should be added that the copy of petition must be furnished to the opposite party, that the opposite party may come proper and unnecessary delay may not occur.

6. In the Section 6, clause 5, that the work to take security for payment of debt is to put the hindrances in the way, but to ask security for the costs of the proceedings is not so.

7. In the Section 7, clause 1, where it is said unless he is in prison, &c., &c., should be added if he is left on security under Section 336 of Civil Procedure Code, Act XIV of 1882, as there is generally the case with judgment debtors in execution of decrees of civil court.

8. Section 17, paragraph 10, provides that the order made on the application may be executed as if it were a decree. It ought to be for those persons only who wish to get the dividend from the estate of bankrupt and not for others who do not wish to be benefited by the provisions of the Act.

9. Section 27 is silent. Clause (c) should be added that who contracted debt *recklessly or carelessly*.

10. Section 28, clause 1, should fix any period in which debt may be liquidated, say 12 years is a reasonable time. After that he must declared free from the such debt, otherwise it would be once a *bankrupt* always a *bankrupt*.

From CHORA LAL, House Proprietor and Contractor, to Under-Secretary to Government, Punjab,—(dated 16th October, 1885).

I have to acknowledge receipt of your letter, dated Simla, the 30th August, under cover of No. 844 enclosing a copy of a draft Bill to amend the Law of Bankruptcy and Insolvency in certain parts of British India, with Draft Statement of Objects and Reasons, for my humble remarks on the same.

I have gone through the whole of the draft, and, so far as I can see, I agree with it, except in two or three places, for which I beg to offer the following remarks.

In Section (7), No. 3, the debtor's petition ought to be withdrawn without the leave of the Court, except in cases the Court thinks it fit as otherwise.

In Section (11) the manager for the debtor's estate ought to be appointed by the Court, as well as the receiver and the debtor also be consulted.

In (Section 6), No. 6, when persons owing the debtor acknowledge themselves as debtors to the debtor, the Court ought to give decree against them in favour of the receiver for the debtor.

In (Section 23) in cases where debtor is personally required to point out persons owing him, the expenses in so doing by the debtor ought to be given him.

Also there is required a section by which a debtor may settle with his creditors privately or by appointing arbitrators.

Hoping you approve of the above.

From LALA GAGAR MAL, Honorary Magistrate, Amritsar, to Under-Secretary to Government, Punjab,—(dated 15th October, 1885).

I have to acknowledge the receipt of your favor, No. 540 dated 8th instant, as well as a copy of draft Bill to amend the Law of Bankruptcy and Insolvency for my opinion. In reply to that I beg to return herewith, under a separate cover, the said draft with my note thereupon. Some delay occurred in forwarding the draft as I had to consider it thoroughly. Please excuse delay.

Within a year—This seems to be a very long time. For it is just possible that a person may contract large debts within a year, and he himself be unwilling to go to the Insolvency Court and the creditor may not be able to take any steps. Therefore in my opinion 3 months or 6 months at the most should be the limit.

* Rather vague. It should be *during office hours*, or some definite time or day should be fixed.

Signed must be *dated*, and made to include sealing and marking.

† *Fide* note to section 15, clause (1)

‡ Should be *and*. It is very easy to put the seal of Court on papers without the Judge knowing it. Seals are always in the hands of peons and others of the same class.

Section 7, clause (d). The debtor is in prison within the local limits of the jurisdiction of the Court under an order of a Civil Court for non-payment of money, or has within a year before the date of the presentation of the petition ordinarily resided or had a dwelling-house or place of business within those limits.

Section 15, clause (4)—Any person stating himself in writing to be a creditor of the bankrupt may personally or by agent inspect the statement at all *reasonable times*,* and take any copy thereof or extract therefrom. * * * * *

Section 16, clause (8).—Such notes of the examination as the Court thinks proper shall be taken down in writing, and shall be read over to and signed by the debtor, and may thereafter be used in evidence against him; they shall also be open to the inspection of every creditor at all *reasonable times*.†

Section 17, clause (7).—If the Court approves the composition or scheme, the approval may be testified by the seal of the Court being attached to the instrument containing the terms of the composition or scheme, or‡ by the terms being embodied in an order of the Court.

Section 42, clause (1).—Every conveyance or trans-
 fer of property, or
 Avoidance of preference in certain cases charge thereon made,
 every payment made,
 every obligation incurred and every judicial proceed-
 ing taken or suffered by any person unable to pay his
 debts as they become due from his own money in
 favour of any creditor, or any person in trust for any
 creditor, with a view of giving such creditor a prefer-
 ence over the other creditors shall, if the person
 making, taking, paying or suffering the same is a
 judged bankrupt or a bankrupt petitioner presented
 within three months after the date of making, tak-
 ing, paying or suffering the same be deemed null and
 void as against the trustee in the bankruptcy.

* Should be six months. three months is too little
 time

PART V.

TRUSTEES

Remuneration of Trustees.

Section 63, clause (1). When the creditors ap-
 point any person to be
 Remuneration of trustee, trustee of a debtor's
 estate, his remuneration (if any) shall be fixed by an
 ordinary resolution of the creditors, or, if the credi-
 tors so resolve, by the committee of inspection, and
 shall be in the nature of a commission or percentage,
 of which one part shall be payable on the amount
 realized after deducting any sum paid to secured cre-
 ditors out of the proceeds of their securities, and the
 other part on the amount distributed in dividend.

Section 83, clause (a).—The local limits of the juris-
 diction of a Court appointed by a Local Government
 shall be such as may, from time to time, be fixed, *with
 the previous sanction of the Governor-General in
 Council*, by that Local Government within the ter-
 ritories administered by it.

Section 91, clause (a).—An appeal shall lie from
 the order of a Court appointed by a Local Govern-
 ment under section 82 of the High Court of the
 province.

The remuneration of the trustees should be fixed by
 the Court itself in every instance. It will be very im-
 proper to give this power to the creditors. It is sure to
 be abused.

It will be quite unnecessary to obtain the Governor
 General's previous sanction on a matter like this. The
 words in *italic* should be omitted.

The appealable orders should be specified. At present
 the law (which is the same as this) is very unsatisfac-
 tory. Some orders are appealable and some are not.
 Further why should an appeal lie to the Chief Court
 direct? This is a *hardship*. It will be convenient to give
 this power to the Divisional Courts in this Province and
 other corresponding Courts in other Provinces.

There should be a final appeal to the Chief Court or
 High Court, as sometimes intricate questions arise in
 such cases.

PART VII.

SMALL BANKRUPTCIES

Section 103.—When a petition is presented by or
 against a debtor, if
 Summary administration in small cases the Court is satisfied
 by affidavit or other-
 wise, or the official receiver reports to the Court, that
 the property of the debtor is not likely to exceed in
 value *three thousand rupees*, the Court may make an
 order that the debtor's estate be administered in a
 summary manner.

Section 105.—Any person against whom a receiving
 order has been made
 Punishment of fraudulent debtor under this Act shall,
 in each of the cases following, be punished with im-
 prisonment which may extend to two years, or with
 fine or with both, * * *

NOTES

Section 125.—All notices and other documents for
 the service of which
 Service of notices no special mode is
 directed may be sent by prepaid post letter to the last
 known address of the person to be served therewith.

Section 125 (1).—In this Act, unless the context
 otherwise requires, —
 Interpretation

"Province" means the territories under the admi-
 nistration of a Local Government;

"High Court of the province" means the highest
 Civil Court of appeal for the province;

"The Court" means the Court having jurisdiction
 in bankruptcy under this Act.

"Affidavit" includes declarations under any legis-
 lative enactment, affirmations and attestations on
 honour.

"Available act of bankruptcy" means any act of
 bankruptcy available for a bankruptcy petition at
 the date of the presentation of the petition on which
 the receiving order is made.

Small Bankruptcies.—This should not be with regard
 to the amount of the debtor's property. It should be
 the reverse, i.e., with reference to the amount of *debts
 due*, and the amount to make a bankruptcy *small* should
 be Rs. 1,500 only, and not more; otherwise some dis-
 honest people may succeed in arranging that their prop-
 erty may not exceed Rs. 3,500.

Imprisonment.—Simple or what?
Fine.—What amount?

Insert *registered* between the words "prepaid"
 and "part."

These interpretation clauses should be placed in the
 beginning.

Should be *one hour*.

21. If within *half an hour* from the time appointed for the meeting a quorum of creditors is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than seven or more than twenty-one days.

From BAGGAN LAL, Honorary Magistrate, Amritsar, to Under-Secretary to Government, Punjab,--(dated 1st September, 1885).

With reference to your letter dated 30th July 1885 I have to submit my few remarks as to the Draft Bill to amend the Law of Bankruptcy and Insolvency in certain parts of British India, and they are as follows.

2. In section 3 it is necessary that the British India may be defined, that it may be more clear whether the foreign States come within the definition. Although the General Causes Act, 1 of 1868, defines the British India, but still remains doubtful as to its limits supporting, for instance *Biluchistan*, &c. &c.

3. In the same section, clause (c) is somewhat correct, that by issuing the process of sale in execution of decree cannot be said that the debtor has committed the act of bankruptcy.

4. In section 5, clause (d), paragraph 2nd, where it is said within a year before the date of presentation of the petition or finally resale, &c., the clause in the section is not clear to fix the period gives rise to a doubt.

5. In the section 6, clause 1, it should be added that the copy of petition must be furnished to the opposite party that the opposite party may come proper and no unnecessary delay may not occur.

6. In the section 6, clause 5, that the words to take security for payment of debts is to put the hindrances in the way, but to ask security for the costs of the proceedings is not so.

7. In the section 7, clause 1, where it is said unless he is in prison, &c. &c., should be added if he is left on security under section 336 of Civil Procedure Code, Act XIV of 1882, as there is generally the case with judgment-debtors in execution of decree of civil court.

8. Section 17, paragraph 10, provides that the order made on the application may be executed as if it were a decree.

It ought to be for those persons only who wish to get the dividend from the estate of bankrupt, and not for others who do not like to be benefited by the provision of the Act.

9. Section 27 is silent. Clause (c) should be added that who contracted debt *recklessly or carelessly*.

10. Section 28, clause 1, should fix any period in which debt may be liquidated, say 12 years is a reasonable term. After that he must be declared free from that said debt, otherwise it would be once a bankrupt always a bankrupt.

From Officiating Secretary to Chief Commissioner, Central Provinces, to Secretary to Government of India, Legislative Department,--(No. 1134-202, dated 21st October, 1885).

I AM directed to acknowledge your No. 1013, dated 17th June last, forwarding for opinion a draft Bill to amend the Law of Bankruptcy and Insolvency in British India.

2. The Bill will affect only the Presidency towns, the four chief towns, in British Burma and the few large commercial centres to which it may hereafter be extended. There are no large commercial centres in the Central Provinces at present, nor the likelihood of the extension of the Bill to any town in these provinces in the future is remote. Under these circumstances the Chief Commissioner does not think it necessary that he should make any observations on it.

3. The Bill was sent for opinion to two selected officers, Mr. J. W. Neill, Officiating Judicial Commissioner, and Mr. Venning, Commissioner of Nagpur. Neither of these officers has offered any criticisms on it.

From E. S. SYMS, Esq., Officiating Secretary to Chief Commissioner, British Burma, to Secretary to Government of India, Legislative Department,--(No. 351-26-12, dated 15th December, 1885).

I AM directed to acknowledge the receipt of your letter No. 1011, dated the 17th June last, regarding a draft Bill to amend the law relating to Bankruptcy and Insolvency.

2. I am now to submit copies of the letters cited in the margin, which contain expressions of the opinion of the Recorder of Rangoon, of the Judge of Moulmein, and of the Rangoon Chamber of Commerce, on the provisions of the Bill. The opinion of the learned Judicial Commissioner is still awaited. It will be submitted in due course. The delay in replying to your reference has been occasioned by the Chief Commissioner's desire to be in possession of the views of the Chamber of Commerce and, if possible, of the Judicial Commissioner, before taking the matter into consideration.

3. The Chief Commissioner agrees that for the present, as regards this province, the new Act should apply only to the four principal seaport towns. By Act XIV of 1885 power has been conferred on the Chief Commissioner to transfer the jurisdiction in insolvency matters of the Recorder of Rangoon to the chief Civil Courts of Moulmein, Akyah, and Bassein in respect of these towns. Subject to the assent of the Governor General in Council, a similar power is conferred on the Chief Commissioner by sections 82 and 83 of the Bill. It would seem necessary to take care that the provisions of the Bill should not conflict with those of the Act above cited. But the Chief Commissioner does not support the suggestion made by the Judge of Moulmein that the power at present exercised by the Local Government of transferring insolvency jurisdiction on and withdrawing it from the Moulmein Court should be annulled by the constitution of that Court as an insolvency Court under section 82 of the Bill.

4. The Chief Commissioner supports the proposal made by Mr. MacEwen that power should be taken in section 88 to confer on the Court of Small Causes in Rangoon the limited jurisdiction in bankruptcy matters which it is proposed to enable the High Court to confer on the Small Cause Courts in the presidency towns.

5. Section 91 of the Bill provides for appeals from orders in bankruptcy matters. Before the Bill is introduced into the Legislative Council it is probable that the jurisdiction of the superior Courts in this province will have been satisfactorily settled. But should the question of the constitution of a Chief Court in Burma be still unsettled when the Bankruptcy Bill is finally drafted, it will be necessary to specify in clause (c) of section 91 the particular High Court to which appeals under that clause would lie. Such appeals might appropriately lie to the Court of the Recorder of Rangoon.

6. The Chief Commissioner solicits special attention to the opinion of the learned Recorder of Rangoon, particularly to the views stated in paragraphs 5, 6 and 7 of his letter which seem to be worthy of consideration. It seems very important that the application of the less cumbersome procedure (section 103 of the Bill) should be extended so as to embrace cases where the assets are, apparently, not more than Rs. 10,000. Mr. MacEwen's figures, namely, 91 insolvencies, Rs. 28,74,000 of debts and only Rs. 41,000 (less than 2 per cent. of the debts) recovered by the Official Assignee in all, do not warrant sanguine hope that bankruptcy proceedings will greatly benefit the mass of creditors. There is, perhaps, therefore, the more reason for attempting, when the law is under revision, to free innocent debtors from some part of the pains and penalties now accruing to themselves and their families from non-fraudulent debt.

The recommendation made in paragraph 8 of Mr. MacEwen's letter regarding the abolition of dual jurisdiction in the same Court also commends itself to the Chief Commissioner.

7. Mr. MacEwen's report contains a recommendation for the abolition of imprisonment for non-fraudulent debt. The learned Judge is clearly in favour of such abolition, though he mentions that the retention of this penalty has been practically decided upon. The Chief Commissioner does not know how this may be. He ventured previously (letter No. 673—1-B., dated the 24th July, 1882, to Home Department) to show cause for the total abolition of imprisonment for non-fraudulent debt. He still holds to the same opinion. He recently referred to the Judicial Commissioner certain cases of imprisonment for civil debt in the hope that the learned Judge would advise or comment upon the matter. If anything of interest or value results from this recent reference and discussion, the papers will be laid before the Government of India.

From D. G. MACLEOD, Esq., Judge of the Town of Moumeir, to Junior Secretary to Chief Commissioner, British Burma,—(No. 129—1, dated the 21st August, 1885)

IN compliance with the request made in your letter No. 190—231, (Judicial Department, Legislative), dated the 6th ultimo, I have the honour to offer the following opinion on the Indian Bankruptcy Bill.

In dealing with the first question included in the 11th paragraph of the Statement of Objects and Reasons, namely, as to the extent to which the proposed law should be applied locally in British India, it is necessary to bear in mind the main object of a bankruptcy law, which is to relieve honest debtors from the punishment of imprisonment for debt. The securing of the debtor's property for the benefit of his creditors is really subsidiary to the relief to the debtor, and the question, therefore, should not be entirely judged with reference to the existing machinery for working the proposed law for the benefit of creditors.

The question, however, as discussed in the Statement of Objects and Reasons of the Bill, is not, as it was in the correspondence in 1882, whether it is advisable to abolish imprisonment for debt, but whether the privileges of the proposed law should be extended to debtors in India generally, or only to a favoured few who have the good fortune to be inhabitants of the small local areas to be brought under the operation of that law.

Allowing even that there are differences between the circumstances of indebtedness arising in commercial centres and those occurring in the Mofussil, it seems to me desirable to have only one insolvency law for the whole of India, and this, as stated in paragraph 11 of Statement of Objects and Reasons of this Bill, might be effected by inserting in the proposed measure a chapter providing the modification and simplifications necessary to suit the requirements of Mofussil Courts. Chapter XX of the Civil Procedure Code has been, if not long enough in force to give the way for a measure such as the present, sufficiently tried to show the necessity for its very considerable amendment, if not for its abolition, and I consider it unadvisable to retain it in preference to a simplified but complete insolvency law.

If it should in the end be decided not to frame an Act applicable to the whole of British India, it should, I think, at least be left optional with persons resident beyond the local limits of the Courts with insolvency jurisdiction to avail themselves of the benefit of the insolvency law. Cases are conceivable in which it may be a less hardship to debtors and creditors to get insolvency affairs administered by a Court having jurisdiction under the proposed measure than by the ordinary local Court with restricted powers under Chapter XX, Civil Procedure Code, such for instance as the case of a debtor who resides just outside the limits of an Insolvency Court or has considerable property within such limits.

Coming to that part of the Statement of Objects and Reasons which refers to the difference between the Bill and the law on which it is modelled, I would remark in regard to the question of jurisdiction to entertain applications for a declaration of insolvency, that by reason of the difficulty in the case of natives of proving the fact of residence at all, it seems desirable to amend the provision by including *the personal management of business or working for gain as grounds of jurisdiction*. This would afford creditors, friends, and others means of proving the point of jurisdiction, which would probably be frequently raised by reason of the limitations imposed on it by the draft Bill.

As regards the provisions of the Bill, it is not easy to foresee how details, for the most part adapted to English modes of business, would work in practice in India. My remarks, therefore, will be directed and confined to what appear to me to be omissions in the Bill rather than to entering the propriety or efficiency of the proposed procedure.

Section 8 (1).—If it is intended, as I think it must be, to give the Court power to release the debtor from jail if he should be there when the receiving order is made, provision for that should be made here by empowering the Court to order the release of the debtor whenever he may be confined. The power to release from jail, even if the jail be without the jurisdiction of the Court, is necessary in view of the different grounds which confer insolvency jurisdiction.

(2).—Under Act XXVIII of 1866 the power of sale is only conferred in respect of mortgages to which English law is applicable, and unless this provision is limited to the exercise of such power, mortgagees would be entitled to realize their securities by suit to the detriment of the interests of the uncured creditors, which the expenses of the suit would occasion. This remark should be read in connexion with another, which I shall presently make in reference to the rights of mortgagees (*infra* 2nd Schedule 12c).

Section 10 (4).—Provision similar to that previously suggested should be made here also for the release of the debtor from jail if not released at the time of making the receiving order.

Section 26 (1).—The right to summon others than the debtor should be limited, as in the Civil Procedure Code, with reference to the means of communication between their place of residence and the court house.

(2) I would add after the word "sum" the words "for his travelling expenses and subsistence."

Section 45.—It is, I think, desirable that the power of the Courts to seize the property of a bankrupt should extend to any part of Her Majesty's dominions, suitable provision being made for the procuration of the necessary authority from the Court having jurisdiction where the property is situate.

Sections 82 and 83.—As the Bill was drafted before the amendment of the Burma Courts Act 1875, by the Act of 1885, whereby the insolvent jurisdiction before exercised by the Recorder of Rangoon in Moulmein has been vested in the Judge of Moulmein, these sections should be altered so as to give the Court at Moulmein jurisdiction in bankruptcy by the direct operation of the proposed Act.

Part VII.—The usefulness of this chapter would be extended by providing that the Official Receiver shall not be required to pay the court-fees prescribed for proceedings in Court for the recovery of debts, but that the amount due for such fees shall be a first charge on any sum that may be obtained by him, or that it shall be payable out of the general funds of the estate. The difficulty also of investigating small claims of insolvents must, I should think, not prohibitively against the institution of suits for the recovery of such claims. If such suits were allowed to be brought on the statements made by insolvents in their schedules, greater responsibility would attach to such statements, and the burden of the suit would be rightly thrown on the person who, but for the intervention of the Receiver, would be the party to sue. The Official Receiver of course would be bound to satisfy himself as to the legality of the claim as disclosed by the facts stated in the schedule, but every other facility should be given him to realize the property of the debtor in the way I have indicated. No. 25 of the rules of the Calcutta High Court, framed under the recent Insolvency Act, provides that the Official Assignee may sue without payment of *office fees* if he have no funds, but this does not include stamp-duty, to which my remarks are intended to apply.

Second Schedule 12 (c).—To meet the case of mortgagors whose securities exceed in value the amount of the debt, corresponding rights should, I think, be left to the trustee to force a sale of mortgaged property at a reserved price equal to the amount due on the mortgage, as the trustee may not always be in a position to redem.

The trustee should also have the right to sell the equity of redemption in mortgaged property if the mortgagor does not seek to foreclose his mortgage within some specified time.

From R. S. T. MacEwen, Esq., Officiating Recorder of Rangoon, in Secretary to Chief Commissioner, British Burma, (No. 164—51, dated the 20th August, 1885).

I HAVE the honour to acknowledge receipt of your letter No. 100—26-L, dated 6th July last, forwarding copy of a draft Bill to amend the Law of Insolvency and Bankruptcy in India, and asking for an expression of opinion on the provisions of the Bill.

2. The Bill itself is a large measure and deals with a somewhat difficult and complex subject. It is drawn on the lines of the recent English Bankruptcy Statute, and would require much more time than I have at present at my disposal to examine its provisions in detail and consider their probable effect in the event of its becoming law. But I may say that a new Act dealing with insolvency and bankruptcy in India has long been felt to be a necessity, and I think the general feeling has been, both amongst lawyers and commercial men, that any measure of the kind which is undertaken should be as clear, simple and effective as possible. Whether this Bill fully answers these requirements it is difficult to say without a much more minute examination of its provisions than I am now able to give to it.

3. Part I (sections 3—29) of the Bill deals with the procedure to be followed from an act of bankruptcy to discharge, and in cases of large bankruptcies, where the bankrupts are traders and the scope for distribution is considerable, the provisions are no doubt to the advantage of creditors, but they are more numerous than under the present system, and will lead to greater expense in the administration of bankrupt estates. They will add considerably to the work of the Courts and of the Official Assignee (called Official Receiver in the Bill), and appear to contemplate (in large cases at least) the appointment of a trustee, other than the Official Receiver, in each bankruptcy. The appointment of such a trustee, except in large and intricate cases, seems unnecessary and undesirable. If generally adopted, the effect would be to take all bankruptcies likely to render reasonable remuneration to the trustee out of the hands of the Official Receiver and Trustee and to leave him with only such cases as would yield little or no returns, and as he is not a salaried officer, but dependent wholly upon commission for his own labour and the cost of his establishment, it would be difficult, if not impossible, to secure the services of competent persons as Official Receivers. If the commission to come to the Official Receiver is likely to be inadequate, the Government will have to pay a large salary to the Official Receiver and the cost of his establishment. For the duties imposed by the Bill on the Official Receiver are considerable and important, and must be performed by a professional lawyer. At present the Official Assignee and his establishment cost the Government nothing. No doubt section 24 leaves it in the discretion of the Court to appoint an independent trustee, but the appointment might be applied for by the creditors. The Official Receiver would probably object. At all events there would be a conflict of interests, and it might be difficult to refuse an application by the body or a majority of the creditors. Such applications would never be made in non-paying bankruptcies, and the practical effect might be to leave these and no other in the hands of the Official Receiver. It seems to be considered that these would be difficult in finding non-official persons qualified and willing to act in such cases. I do not think this is so much to be apprehended, as the competition there would be for paying trusteeship. There are always a considerable number of persons ready to offer for any business that may be expected to pay, and sub-section (2) of section 61 contemplates the appointment of solicitors. It appears to me, therefore, that unless some restrictions are placed upon the appointment of non-official trustees, there is likely to be a good deal of competition for the business, and if appointments were freely made, it would be with the result just indicated. On the whole, I think the business is likely to be better performed in the hands of a respectable professional Official Receiver, and, in addition to the discretion imposed upon the Court in the matter, I think no appointment of a non-official trustee should be made except upon a resolution of three-fourths in number and value of the creditors, and that section 20, sub-section (2), should be altered to this effect.

4. The Bill (section 63) provides for the remuneration of non-official trustees, but it does not appear how the Official Receiver is to be paid. Of course if it is intended that he shall be a salaried officer and receive no commissions, then these observations will be inapplicable. But if he is to be on the footing of the present Official Assignee, they open deserving of consideration; and if he is to be a salaried officer, it may be well to enquire from what source his salary and establishment are to be met. The only court-fee chargeable in insolvency cases is the ordinary petition fee of eight annas, and the fees for serving notices go to the messenger and not to the credit of Government.

5. The provisions of Part I are, it seems to me, unnecessarily complex for the large number of small bankruptcies which occupy so much of the time of the Courts at present. It is true that VII provides a summary procedure for some, but not for all of these cases. It is only in cases where the property to be administered does

not exceed Rs. 3,000 that this part applies. I annex a statement showing the number of insolvencies in this Court during the past three years, with the scheduled liabilities, assets, and actual recoveries. In 1882 there were 20 insolvencies, aggregating Rs. 4,514 of liabilities, and scheduled assets amounting to Rs. 2,12,523, while the total recoveries amounted to Rs. 23,187 and of this sum Rs. 20,163 was secured, the sum which the Official Assignee recovered for distribution amongst creditors being only Rs. 3,321.

In 1883, out of 22 insolvencies with total liabilities of Rs. 11,17,824 and scheduled assets of Rs. 6,32,792, Rs. 82,823 was all that was recovered. Of this sum, Rs. 60,080 was secured, and the balance, Rs. 22,743, the Official Assignee called in.

In 1884 the total liabilities in 39 insolvencies was Rs. 10,63,635. The assets as per schedule amounted to Rs. 7,82,933, the recoveries to Rs. 50,446, of which Rs. 39,782 was secured, and the Official Assignee recovered Rs. 16,654.

It is not quite clear what "property of the debtor" in section 103 is intended to cover. If it means scheduled assets, then Chapter VII would apply to about one-half of the business in this Court. Of the 91 insolvencies shown in the statement it would apply to 47. Having regard, however, to the results in the remaining 44 cases, it would seem that the most money will be raised to Rs. 5,000, and I think it might with safety and advantage be raised to Rs. 10,000. In three only out of the 91 cases has property of the value of Rs. 10,000 and upwards been administered, and in seven cases has property between Rs. 5,000 and Rs. 10,000 been received. In the remaining 84 cases the property actually administered was less than Rs. 5,000. In 53 cases absolutely nothing was recovered. The provisions of section 11 relating to meetings of creditors would be inapplicable to the whole of these 84 cases.

In 9 out of 10 of these cases the insolvent's only come into Court for the purpose of obtaining a protection order. They are either in jail in execution of a Civil Court decree or are threatened with arrest; they have little or no property; in many cases absolutely none. They are nearly all petty traders or mechanics, clerks, and other persons of the number of their creditors and the individual debts are small. There is seldom much if any capital tied up, and the whole business in these cases is of a simple and elementary character. To apply the provisions and to enforce them to any great extent, to these cases would, in my opinion, be a mistake. The cost, trouble, and delay would far exceed the benefit to be derived. The estates would not bear the cost, which would therefore fall upon the Government.

6. I have very little doubt, although I have not the means of testing my opinion by returns, that in the Presidency towns the results will be found to be much the same as here. I think that if there was no imprisonment for debt there would be very little insolvent business in India; at all events it would be confined to *bona fide* trading bankruptcies. It seems to me that no matter how stringent a bankruptcy law may be made, it will be taken advantage of so long as imprisonment for debt continues, and the Courts will be resorted to by a class of debtors who ought not to be able to get rid of their debts by means of an Act of this kind.

The true remedy is abolition of imprisonment for debt. It would entirely abolish and be immensely to the advantage of the public and the administration of justice. It would practically abolish small bankruptcies, save much legislation, the time of the Courts, and the expenditure of public money. I understand the question has lately been considered and it has been decided to retain imprisonment for debt. I think, however, it is well worthy of further consideration in connection with the subject of insolvency and this Bill.

7. Section 103 (a) provides that the committee of inspection may be dispensed with in small bankruptcies, and (c) allows for other modifications by rules. But (c) is an inconvenient arrangement, and the power to make rules which absolutely amend the direct provisions of an Act is often questioned. I think where modifications are considered necessary they ought to be made in the Act itself in this part. I am of opinion that all the provisions relating to meetings of creditors should be dispensed with in small bankruptcies, and that this modification should precede or follow clause (6).

8. I am also of opinion that in Courts where the Bankruptcy Act is in operation, Chapter XX of the Civil Procedure Code should not apply. The double jurisdiction and procedure lead to confusion, doubts, and uncertainty; persons will not know which procedure to come under, and objections and difficulties will be raised. As it is, Chapter XX has been very little used in the Courts now exercising insolvent jurisdiction. There is not a single instance of it in this Court, and until the High Court of Calcutta lately held that it had concurrent jurisdiction under the Civil Procedure Code, the power was doubted. At all events it had not been freely exercised. I am of opinion, therefore, that one of two courses ought to be followed with regard to this part of the subject—

- (1) Additional provisions ought to be added to Chapter XX to provide more fully for small bankruptcies, and they should be omitted from this Act altogether; or
- (2) Part VII ought to deal with them entirely and be the only law in the Courts to which the Act would apply, and Chapter XX of the Code should be restricted to Courts in which the Act did not apply.

I think the second is the preferable course, and that their proper place is in this Act; but the procedure should, as nearly as possible, be that of the Code.

9. This Court has not at present the machinery necessary to carry out the provisions of the Bill, and even if a Civil Court should be constituted for British Burma, it will require some addition to its establishment to work the Act properly in all bankruptcies, where the property likely to be realized exceeds Rs. 3,000, were to be made subject to the Bill provisions of the Act. The principal Civil Courts at Moulmein and Akyah have lately been reconstituted with insolvency jurisdiction, and I think they have not and are not likely to obtain the establishment necessary for the purpose. The jurisdiction might no doubt revert to the Recorder or be vested in a Chief Court, but I think it would be a very great hardship on persons resident in these places to compel them to come to Rangoon in all cases of small bankruptcies. The principal Civil Courts in these places are quite competent to deal with small insolvencies, and with a simple procedure they would not require extra establishments. I think, therefore, that this is a matter of considerable importance so far as the seaport towns of this province are concerned.

10. Section 88 confers certain powers on the Judges of the Presidency Small Cause Courts. I see no objection to this provision. It will relieve the High Courts of a great deal of purely formal work and of a number of petty *moneyed* bankruptcies, and I presume the rules contemplated by sub-section (1) would be a *pecuniary* limit beyond which the Courts could not receive or hear bankruptcy petition. In the draft Bill to constitute a Chief Court for British Burma power has been taken to extend the Presidency Small Cause Courts Act to Rangoon. Similarly power might be taken to extend, at any time, the provisions of section 88 to the Small Cause Court of Rangoon, although I could not at present recommend that the powers given by the Bill should be exercised by the Rangoon Small Cause Court. But if that Court is reconstituted under the Presidency Acts, and the necessary establishments are allowed, there is no reason why it should not exercise the same powers as the Presidency Court.

11. I entirely approve of the final sections of the Bill. I think they are most necessary and will meet most of the cases which arise in practice.

Statement showing Scheduled Liabilities and Assets and Recoveries by the Official Assignee during the year 1882.

Number of Insolvencies.	Liabilities in rupees.	ASSETS AS PER SCHEDULE.				ACTUAL RECOVERIES.				Remarks.
		Debts due to the estate in rupees.	Value of property unsecured in rupees.	Value of property secured in rupees.	Total in rupees.	From debtors in rupees.	Property unsecured in rupees.	Property secured in rupees.	Total in rupees.	
1	...	...	...	...	...	...	...	...	...	Registry of bankruptcy in Scotland.
2	0,305	300	...	...	300	...	020	...	020	The insolvent compromised with his creditors out of Court at four annas in the rupee.
3	13,350	13,527	...	...	13,527	116	...	...	116	
4	6,579	...	...	...	...	...	...	...	...
5	21,107	1,000	...	8,040	9,040	111	...	1,700	1,811	
6	2,840	2,300	...	...	2,300	...	...	...	...
7	...	...	...	...	...	...	073	...	073	No schedule filed; insolvent settled with creditors out of Court and paid in Rs. 12,898, to be divided amongst creditors at four annas in the rupee.
8	11,007	...	...	...	...	...	...	8,050	8,050	
9	...	...	...	...	...	...	...	...	...	No schedule filed.
10	21,054	...	...	...	...	...	...	...	...
11	2,35,847	...	478	1,21,600	1,22,078	...	478	...	478	Rupee 1,217 was also realized from rents of houses. This insolvent compromised with his creditors out of Court for eight annas in the rupee.
12	Cannot be ascertained as case is transferred to Akash.	...	...	...	...	46	...	...	46	
13	2,084	...	...	...	...	...	...	...	...
14	61,344	4,537	1,700	...	6,237	...	658	5,571	6,229	
15	6,951	3,511	80	720	4,321	...	...	1,553	1,553	
16	1,000	10,500	...	...	10,500	...	...	...	...
17	6,247	1,100	...	4,870	6,917	50	...	3,220	3,270	
18	20,508	500	...	30,100	30,600	...	118	...	118	
19	5,148	...	...	...	...	...	...	...	...
20	3,005	1,755	...	1,800	3,555	...	25	...	25	
	4,51,401	39,512	2,254	1,73,510	2,23,276	451	2,909	20,163	23,172	

Statement showing Scheduled Liabilities and Assets and Recoveries by the Official Assignee during the year 1883.

Number of Insolvencies.	Liabilities in rupees.	ASSETS AS PER SCHEDULE.				ACTUAL RECOVERIES.				Remarks.
		Debts due to the estate in rupees.	Value of property unsecured in rupees.	Value of property secured in rupees.	Total in rupees.	From debtors in rupees.	Property unsecured in rupees.	Property secured in rupees.	Total in rupees.	
1	746	...	...	...	...	...	...	...	...
2	1,04,979	...	...	...	...	...	...	...	...
3	...	...	...	...	...	...	...	...	...	No schedule filed.
4	61,853	784	7,381	...	8,165	...	6,250	...	6,250	
5	...	...	...	...	...	...	...	...	...	This was for final discharge.
6	6,802	3,110	...	...	3,110	...	...	...	...
7	5,300	...	...	3,000	3,000	...	...	...	...
8	6,055	8,100	...	...	8,100	...	...	...	...
9	16,000	10,500	...	...	10,500	...	...	...	...
10	2,000	...	233	...	233	...	33	...	33	
11	...	...	...	...	...	...	...	...	...	This was for final discharge.
12	58,943	7,202	...	675	7,877	...	...	...	...
13	4,780	...	...	...	...	...	...	...	...
14	2,810	575	...	...	1,775	...	...	...	...
15	1,503	...	...	...	...	...	...	...	...
16	8,100	2,004	...	...	2,004	...	...	422	422	
17	4,733	913	...	160	5,806	...	...	...	...
18	3,17,881	41,000	...	3,08,111	3,10,111	...	570	...	570	
19	5,500	4,085	...	...	4,085	...	...	...	...
20	8,702	...	...	...	...	...	...	8,323	8,323	
21	8,00,467	21,702	5,420	2,00,550	2,28,672	2,101	14,630	51,333	68,103	
22	2,506	1,504	...	...	1,504	...	...	...	...
	14,17,824	68,264	13,014	5,51,10	6,33,502	2,306	20,447	60,080	82,827	

Statement showing Scheduled Liabilities and Assets and Recoveries by the Official Assignee during the year 1884.

Number of insolventcies.	Liabilities in rupees.	ASSETS AS PER SCHEDULE.				ACTUAL RECOVERIES.				Remarks.
		Debt due to the estate in rupees.	Value of property unsecured in rupees.	Value of property secured in rupees.	Total in rupees.	From debtors in rupees.	Property unsecured in rupees.	Property secured in rupees.	Total in rupees.	
1	2,205	...	...	...	...	...	...	...	...
2	4,718	284	...	...	284	...	...	...	...
3	3,807	169	...	...	169	...	...	...	...
4	5,642	785	...	...	785	...	...	...	...
5	...	...	...	...	...	...	...	...	...	This case is for final discharge.
6	3,885	...	127	...	127	...	43	...	43	
7	2,644	...	...	...	...	...	...	...	...
8	2,550	306	...	...	306	...	...	...	...
9	2,688	170	...	...	170	...	...	...	...
10	2,635	...	300	...	300	...	108	...	108	
11	9,050	...	...	...	...	...	...	...	...
12	...	...	...	...	...	...	...	...	...	No schedule filed.
13	2,050	2,624	...	...	2,624	...	...	...	...
14	7,157	7,755	150	...	7,905	10	601	...	671	
15	2,560	...	...	...	...	...	625	...	625	
16	...	...	...	...	...	...	...	...	...	No schedule filed.
17	65,209	...	...	...	...	...	5,157	17,800	22,957	
18	9,870	3,046	695	...	1,041	...	624	...	624	
19	7,947	8,085	112	...	8,197	...	...	...	...
20	8,266	785	184	...	969	...	420	...	420	
21	13,810	3,620	9,260	...	12,880	1,719	3,889	...	5,588	
22	20,603	2,957	...	7,300	10,257	...	...	5,010	5,010	
23	73,765	71,962	1,818	...	73,280	...	81	...	81	
24	57,047	67,389	2,573	...	69,962	...	1,313	...	1,313	The insolvents in these cases compromised with their creditors out of Court at eight annas in the rupee.
25	1,66,136	41,426	4,274	2,10,088	2,55,790	...	...	...	...
26	85,336	60,057	3,088	...	63,745	...	...	...	...
27	1,84,000	15,000	1,086	1,10,000	1,56,086	...	...	...	...
28	...	...	...	...	...	...	...	...	...
29	11,095	...	...	...	...	...	629	...	629	This case is for final discharge.
30	7,733	2,000	...	...	2,000	...	...	...	...
31	10,050	5,300	141	6,776	12,226	...	516	1,500	2,016	
32	6,510	3,361	418	250	4,029	...	221	...	221	
33	9,409	...	20	...	20	...	...	...	...
34	27,921	520	...	...	520	...	...	...	...
35	6,175	260	7,207	13,000	20,467	...	...	...	...
36	32,393	8,606	772	15,500	25,178	254	200	13,200	13,754	
37	...	...	...	...	...	...	...	...	...	No schedule filed.
38	Cannot be ascertained; case transferred to Moulmein	...	...	...	...	...	74	...	74	
39	10,510	4,230	...	...	4,230	...	...	...	...
40	Cannot be ascertained; case transferred to Moulmein	...	...	...	...	...	...	...	...
41	3,013	...	...	...	...	...	...	...	...
42	3,163	...	...	...	...	...	...	...	...
43	6,490	...	...	2,000	2,000	...	...	625	625	
44	14,108	10,022	...	...	10,022	...	...	...	...	This case is for final discharge.
45	...	...	...	...	...	...	...	...	...
46	6,401	5,747	186	...	5,933	...	...	...	...
47	51,913	24,421	...	11,500	37,921	...	...	825	825	
48	Cannot be ascertained; case transferred to Moulmein	...	...	...	...	...	131	...	131	
49	32,706	...	...	...	...	...	...	...	...
50	10,03,035	3,42,807	33,710	4,08,328	7,82,053	2,016	14,648	39,782	10,440	

From J. STUART, Esq., Secretary, Rangoon Chamber of Commerce, to Secretary to Chief Commissioner, British Burma,—(dated the 5th December, 1885).

I HAVE the honour to acknowledge receipt of your No. 101—26-L., dated the 6th July, 1885, asking the opinion of this Chamber on the draft Bill to amend the law of bankruptcy and insolvency in British India.

In reply I am directed to inform you that, as this was a matter involving legal knowledge for a complete understanding of the proposed alterations, the members of the Chamber did not feel themselves qualified to express an opinion. They, therefore, referred the matter to their legal adviser, and I am directed to forward to you his remarks on the proposed amendments.

I have further to apologise for the long delay in submitting an opinion on this matter, a delay which was occasioned by the references which Mr. Gillbanks, the Chamber's adviser, had to make as to the course of legislation in England on the same subject.

Note by Mr. J. C. GILLBANKS, Barrister-at-Law, Rangoon,—(dated the 5th December, 1885).

FROM the Statement of Objects and Reasons attached to the proposed draft Bill to amend the law of bankruptcy it would appear that in 1870 a proposal of Sir James Stephen's to introduce virtually the English Bankruptcy Act of 1869 was by general opinion negatived as being too complicated for the masses and because the principle of voluntary management by creditors was considered unsuited to India. We think that for the same reasons the present proposed Bill is unsuited for the masses in Burma. A proposal in 1881 to amend the existing insolvency law was rejected on the ground that the law required re-casting rather than amendment. We fully agree with this opinion, and we believe that nothing short of re-casting the law would be satisfactory. The present law does not seem to us to be cumbersome, though it certainly is defective and out of date.

The proposed Bill adopts the English Bankruptcy Act of 1883; thus we pass at once from legislation in 1848 (our present Insolvent Act is dated 9th June 1848) to an Act of 1883, a gap 35 years in legislation. We consider that it is eminently desirable to assimilate the law in force in India in insolvency to that in force in England and thus to afford our Courts the advantage of English decisions.

In the face of the opinions elicited by previous proposals we are not prepared at present that the proposed Bill should extend beyond the limits of Rangoon, Moulmein, Akyah, and Bassein as far as Burma is concerned, but we think it desirable that a proviso should be inserted giving power to the local Government to extend the Act to other places in this province when it shall be deemed desirable or necessary. Further, we consider it advisable that the jurisdiction in bankruptcy shall be vested in the Court of the Recorder of Rangoon (or such Court as may be constituted in its place), except as to Moulmein, where there is already a Judge, in whose Court the jurisdiction might be vested with a right of appeal. Provisions on this point must, however, await the passing of the new Burma Courts Act.

Some of the most important provisions of the Bill are those which apply to a composition in satisfaction of the debts due from the bankrupt, or for a scheme of arrangement of his affairs. These provisions remove some of the gravest defects of the existing Indian insolvency law, and they show the enormous gap in our legislative enactments, for the principle of deeds of arrangement, by which the property of an insolvent trader was made available for the common benefit of his creditors without his being adjudicated a bankrupt, was introduced in England as far back as 1825. Now, without any preparatory legislation it is proposed at once to progress from our legislation of 1848 (which was then more backward than English legislation) to the latest English enactment. We must admit that we are legally advised that it imparts somewhat doubtful, whether as the proposed Bill is shorn of whatever advantages were expected from the control of the Board of Trade, it is desirable to follow so closely the English Act of 1883.

It may be broadly stated that the chief defects of the English Bankruptcy Act of 1869 were in the provisions for liquidation of the debtor's affairs by arrangement and composition. These defects, it has been alleged, arose mostly from the improper use of proxies and the supineness of creditors, which led to the adoption of inadequate compositions through the influence of the debtor's friends and from the want of control over trustees in bankruptcy in case of liquidation by arrangement, the trustees being exempted from the control of the Court.

We presume that the principle of liquidation by arrangement under the voluntary management of creditors is no longer (as in 1870) considered unsuitable to India. From our experience in Rangoon and Burma we do not think the principle unsuited for this province. We may add that many instances of a desire to carry out such arrangements have come within our experience. Sometimes they have been frustrated because there was no method of making them compulsory, and no control could be exercised by the Insolvency Court. A similar want has been felt when a petition has been withdrawn upon arrangement with creditors.

In so far as a provisional order is only made for the protection of the bankrupt's estate when necessary in the first instance, and the creditors are to have a voice in deciding whether the debtor shall be adjudicated a bankrupt or his affairs be liquidated by composition or arrangement, we approve of the principle of the proposed Bill. If it appears that the approval of the Court, which is necessary, was obtained by fraud, or if it appears that in consequence of legal difficulties, or for any sufficient cause, the composition or scheme cannot proceed without injustice or undue delay to the creditors or the debtor, the composition or scheme may be annulled without prejudice to anything done under it. This is a departure which we approve thoroughly, but at the same time we feel some doubts as to whether the proposed Bill is adapted in details to Indian circumstances. It is extremely stringent in many of its provisions, and we think complicated. We should prefer an Act embodying the main principles and features, with the exception of the important changes just noticed, which should be engrafted on the English Bankruptcy Act of 1869, which was not found to work badly, and could have been amended without much difficulty, rather than a close copy of an enactment, which has not been in force for two years, and of the working of which doubts have already been expressed.

We are hardly prepared at present to recommend the abolition of imprisonment for debt or the introduction of more of the provisions of the Debtors Act, 1869, than the proposed Bill contains.

The duties to be discharged under the English Act by the Board of Trade can, we conceive, only be undertaken by the Courts through properly appointed officers. The appointment of such an officer is much needed in Burma.

We can see no object in preserving any distinction between traders and non-traders.

The limitation of the jurisdiction of the Court, and the departure from the corresponding provisions of the English Act, are adapted to this province, and we think that domicile should be rejected as a ground of jurisdiction.

With regard to bankruptcy being a disqualification for certain offices. We consider that a provision for the removal of the disqualification on a bankruptcy being annulled might be provided for.

In sections 29 and 40 of the proposed Bill the provisions of section 295 of the Civil Procedure Code as to the time at which an attaching creditor's title becomes complete as against rival decree-holders will be that at which it becomes complete as against the trustee in bankruptcy. This seems to be a sufficient provision, and one which it is desirable to insert, for although it is in consonance with a decision in the Court of the Recorder of Rangoon there are decisions which conflict with that law.

At present it would not be desirable to overburden the Small Cause Court by jurisdiction in bankruptcy in petty cases transferred. But a provision for the delegation of such powers might be inserted to be exercised when desirable, as it appears to have worked well in Madras.

The following are instances of the stringency of the proposed Bill:—

Section 3, (1) (c).—"If execution issued against him has been levied by sale of his property in any civil proceeding in British India."

If this is intended to include a foreclosure of a mortgage or order of sale in a suit on a mortgage it is, we consider, contingent; such a provision as that contained in the Bankruptcy Act, 1883, would be sufficient.

"That execution issued against the debtor on any legal process for the purpose of obtaining payment of not less than Rs. 500 has been levied by seizure and sale of his goods."

Section 11 (2).—The time for filing a statement of, and in relation to, his affairs by the debtor is extremely short; it is true that the Court may, for special reasons, extend it. By the present Act a debtor is allowed such time as the Court may deem reasonable.

Section 27, relating to the discharge of the bankrupt, especially 3 (a), which requires him to keep such accounts as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position for three years preceding his bankruptcy. For the present the analogous provisions of section 18 of the Bankruptcy Act of 1869 would suffice for forms, which are shortly as follows:—(1) assent of creditors to closing of bankruptcy by special resolution; (2) that he has paid off all debts in the rupee, unless prevented by trustees and other circumstances, for which the bankrupt is not justly responsible, and that they desire his discharge, unless he has made default in giving up property required to be given up by the Act, or that he is being prosecuted under the Debtors Act, 1869. This might be complied with the provisions of the Bankruptcy Act, 1869, as to the status of an undischarged bankrupt (see in 54).

Section 28, is stringent enough as to those debts who are jointly to make settlements on their wives, but it does not touch the case of moneyable property which is bought by a debtor and conveyed to his wife or child. Such transactions are, unfortunately, not uncommon, and some provisions might be inserted as to them. Partially provided for in section 41.

Section 31, restricted to Rs. 500. Under the present Act, no restriction as to amount. The rate of interest, 4 per cent., is very low; the usual Court rate allowed is 6 per cent., 9 per cent. being an average rate of interest.

Section 8—Property not divisible among creditors, only Rs. 200. At present Rs. 300. In the present state of exchange it is much below the value allowed by the English Act, 1883, namely £20 (111) of this section is less stringent than section 23 of the present Insolvency Act on the words "in his trade or business" are inserted. Having regard to the abolition of the distinction between traders and non-traders, it would seem hardly desirable to insert these words, but rather to enforce the former provisions of the repealed enactments.

Considering the heavy stamp duties exacted in India and that certain conveyances, letters of attorney, &c., are by section 75 of the present Insolvency Act exempt from stamp duty, we hope that a section similar thereto, or to section 111 of the Bankruptcy Act, 1883, may be inserted in the new Act.

The provision that a creditor may convey his dissent to a composition or scheme by a letter in a prescribed form attested by a witness, section 17 (e) does not appear adapted to this country; a more formal attestation is necessary.

In section 59 it will be necessary to insert such provisions as would include a senior Judge of a Court not being a High Court; but this will depend on the new Courts Act as far as this province is concerned.

We consider that it is unnecessary at present to introduce the most stringent provisions of the English Bankruptcy Act of 1883, as they are, we think, not adapted to the circumstances of this province. And for the present, and until the English Act of 1883 has been longer in force abroad, and its advantages practically demonstrated, we would suggest that the main principles of the English Bankruptcy Act of 1869 should be adapted with the requisite amendments, already mentioned, and with the adoption of the principle that the creditors are to have a voice in deciding whether the debtor shall be adjudicated a bankrupt or his affairs shall be liquidated by composition or arrangement. We hold that less complication and greater simplicity is necessary both to adapt the Act to Indian circumstances and to render it possible for our Courts and their officers to work an Act which will be such an enormous stride in legislation. Finally, we are glad that there has been a return to the older and more usual nomenclature, and that the terms 'bankrupt' and 'bankruptcy' will replace 'insolvent' and 'insolvency.'

From E. S. SYMES, Esq., Officiating Secretary to Chief Commissioner, British Burma, to Secretary to Government of India, Legislative Department,—(No. 259—31., dated 15th January, 1886).

With reference to paragraph 2 of my letter No. 352—26 L., dated the 15th ultimo, I am directed to submit a copy of a note by the Judicial Commissioner on the Bill to amend the Law relating to Bankruptcy and Insolvency.

Note by Judicial Commissioner, British Burma.

I HAVE compared the Bill with the English Statute, 45 & 47 Vict. cap. 52. With very few alterations the Bill reproduces the Statute. To criticize the Bill is in effect to discuss the Statute, which has in law in England after very full consideration, and which is the outcome of the experience of some twenty years of the working of the Statute when it displaced that Statute came into force just two years ago. I have no experience of its working and I can find very few errors bearing upon it.

It is to be noted that the bankruptcy law of the Presidency towns is small as closely resemble that in force in England as local conditions will allow. I approve of the proposal to restrict the operation of the bill to selected areas in which business is usually conducted on Western lines. As far as my own experience goes, the greater part of the provisions of the Bill are inapplicable to the small bankruptcies which usually come before the Courts of the interior, and those Courts have no agency for working the Bill.

From E. SACK, Esq., Officiating Secretary to Chief Commissioner, Assam, to Secretary to Government of India, Legislative Department,—(No. 1017, dated 7th June, 1885).

In reply to your letter No. 1015, dated the 17th June, 1885, I am directed to say that the Chief Commissioner thinks it unnecessary to offer any remarks on the Bill to amend and consolidate the Law of Bankruptcy and Insolvency, as the proposed Act is not likely to be wanted in this Province.

From A. MARTINDALE, Esq., Secretary to Chief Commissioner, Coorg, to Secretary to Government of India, Legislative Department,—(No. 610—70, dated 3rd July, 1885).

I AM directed to acknowledge the receipt of your letter No. 1016, dated the 17th of June, 1885, forwarding, for an expression of the Chief Commissioner's opinion, a draft Bill to amend the Law relating to Bankruptcy and Insolvency in British India with draft statement of Objects and Reasons.

2. In reply, I am to say that, so far as the Officiating Chief Commissioner is able to judge, the Bill seems suited to the circumstances of the places to which it is proposed to apply it in the event of its becoming law.

From **LIEUT.-COLONEL SIR E. R. C. BRADFORD**, Chief Commissioner, Ajmer-Merwara, to Secretary to Government of India, Legislative Department,—(No. 507, dated 29th July, 1885).

I HAVE the honour to acknowledge the receipt of your letter No. 1017, dated the 17th of May, 1885, forwarding copies of the papers noted on the margin, and in reply to state that I have no observations to offer on the provisions of the draft Bill.

From **J. R. FITZGERALD, Esq.**, Secretary for Berar to Resident, Hyderabad, to Secretary to Government of India, Legislative Department,—(No. 570G., dated 7th December, 1885).

I AM directed to acknowledge the receipt of your letter No. 1018, dated the 17th June, forwarding, for the opinion of the Resident at Hyderabad, a draft Bill to amend the Law of Bankruptcy and Insolvency in British India.

2. In reply, I am to inform you that, as the operation of the Bill is by paragraph 11 of the Statement of Objects and Reasons expressly and closely limited to certain seaport towns and commercial centres, of which none exist in the Hyderabad Assigned Districts, Mr. Condery has no observations to offer in the matter.

From **R. BELCHAMBERS, Esq.**, Registrar, High Court, Calcutta, to Secretary to Government of India, Legislative Department,—(No. 107, dated 13th February, 1886).

I SEND herewith copy of a letter from the Official Assignee and the original note received therewith.

From **J. C. MACGREGOR, Esq.**, Official Assignee, Calcutta, to Registrar, High Court, Calcutta,—(No. 76, dated 13th February, 1886).

I HAVE the honour to enclose herewith a note on the Draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India.

Note.

THE draft Bankruptcy Bill is, in my opinion, calculated to effect a great improvement on the existing law but I think that it follows the lines of the English Statute too closely, and requires certain alterations and modifications to adapt it to the requirements of this country. In the following note I have attempted to indicate section by section the amendments which seem to me to be most necessary or desirable.

Section 3 (1) (d).—I would add the words "or closes his place of business". A considerable number of the persons who pass through the Insolvent Court are Marwarces, who reside in Native States and carry on business in the Presidency-towns by their *gumasthas*. Some such words as I have suggested would seem to be required to meet their cases.

I think the following clause, or one to the same effect, might be added with advantage:—"or suffers himself to be arrested or taken in execution for a debt not due, or submits collusively or fraudulently to an adverse decree, or procures himself, or his property, movable or immovable, to be attached or taken in execution."

Section 3 (1) (e) and (g).—These clauses are very sweeping; I think they should be modified.

Section 7.—I think the question is worthy of consideration whether up-country debtors, Native or European, should not be allowed to seek relief in the Bankruptcy Courts. The provisions of Chapter XX of the Civil Procedure Code apply only to judgment-debtors; they are very defective in many respects, and residents in the *Mutassals* have practically no really effective insolvency law.

Section 9 (2).—The power given to the Bankruptcy Court to stay suits, executions and other proceedings against the debtor in any Court should prove highly useful. When a debtor having property in the *Mutassals* files a petition of insolvency, his up-country creditors at once proceed to sue him in the local Courts and to attach his property, and, as the staying of such proceedings is, under the present law, a matter of some difficulty, the trouble, cost and delay of winding up his estate are greatly increased.

Section 11.—The Official Receiver should be empowered to appoint a special manager with or without an application by the creditors, whenever he considers such function necessary. He should also be empowered to appoint the debtor to be special manager if he considers such appointment expedient, and without having imposed upon him the necessity of first procuring the sanction of the Court. It should further be provided that in the event of a private trustee not being appointed the special manager should be continued so long as the Official Receiver demands his services necessary.

The Official Receiver, who makes the appointment, might also be allowed to settle what security should be given by the special manager, and what remuneration, within certain limits prescribed by rule, he should be allowed. For reasons of economy, as well as of expedition, it is desirable to dispense, as far as may be, with frequent applications to the Court.

Section 11.—The provisions as to meetings of creditors do not seem to me to be suited for India. I believe that, in some cases out of ten, creditors will not take the trouble to attend, or, at any rate, that only two or three of them will do so. In my opinion it would be well to omit all the provisions and rules as to meetings; or the proceeding by meetings might be made the exception instead of the rule, power being given to the Court to direct that, in any particular bankruptcy, meetings should be held. When no such direction is given the holding of meetings should not be compulsory but should be left to the discretion of the Official Receiver or Trustee. It might also be provided that a meeting should be called on a requisition signed by a certain number of creditors.

Section 15 (2).—Provision should be made for the preparation of the statement of affairs in the event of the debtor absconding or neglecting to prepare it. The present practice seems a convenient one and might be adopted. The Court, on the application of the Official Assignee or a creditor, directs the Chief Clerk to issue advertisements calling upon creditors to bring in statements of their claims supported by affidavit before a fixed date, and the Chief Clerk prepares a schedule from such statements.

The proviso to section 62 (2) authorizes the Official Receiver to employ some persons to assist "in the preparation of a statement of affairs" when the debtor himself cannot prepare it, but that does not go far enough, and will not be found sufficient in the not uncommon cases of residents up-country who hide in their native villages and put the Court at defiance.

Section 16 (9).—The declaration that the debtor's examination is concluded should not prevent his being brought up for further examination in the event of fresh facts transpiring which render such further examination desirable.

Section 17.—If, as I have suggested above, the provisions regarding meetings are omitted or not made compulsory in all cases, this section must be altered. The best plan would seem to be to enact that when a debtor makes a proposal for composition such proposal shall be submitted, in the first instance, to the Official Receiver who, if he considers it reasonable, shall either call a meeting of, or submit the proposal by circular to, the credi-

tors. If the creditors, or a sufficient majority of them accept the proposal, it should then be submitted to the Court for sanction.

Section 20.—The power to appoint some person other than the Official Receiver to be trustee of the bankrupt's property is similar to that which the Court now possesses, under section 17 of the present Act, to order the election of a special assignee. I have not known a single instance in which that power has been used, and I believe the instances are very rare. In this country there will always be some difficulty in finding a fit and proper person who has the leisure and inclination to accept a very troublesome and responsible office. Again, it is a fact that native creditors are generally suspicious of one another, and prefer a responsible public officer to one of their own body. Nor is it likely that the creditors will often agree as to the person to be appointed, and the making of a selection by the Court will almost always involve delay, and possibly a tedious and contentious enquiry, attended with some considerable expense. The frequent changes among the European population would involve constant changes in the office of trustee of European bankruptcies and the cost and delay of repeated applications to the Court for appointment of a new trustee in place of a former one who has died or gone home. Management by a public officer has the further advantage of being cheaper than management by a private trustee. The former would not find himself under the constant necessity of consulting a solicitor, while, as a responsible permanent officer of the Court, he might be safely entrusted with a wide discretion and be allowed to take steps for which a private trustee would require the previous sanction of the Court. I have already adverted to the advisability of avoiding frequent applications to the Court. The little use that has been made of the existing power to appoint a special assignee seems to show clearly that administration of insolvent estates by official agency is better adapted to the circumstances of this country than their administration by private agency. I believe that if this section is passed in its present form it will be rarely, if ever, used, and I think, therefore, that it would be well to omit altogether the power to appoint a private trustee, and to entrust the administration of all bankrupt estates to a public officer.

If, however, it is thought expedient to retain that power, then I am clearly of opinion that the person appointed private trustee should always be one of the creditors of the bankrupt; otherwise there will be some danger that the provisions, if used at all, may give rise to a class of professional trustees, and that, when an estate which is likely to be lucrative is brought into Court, we may see several such persons canvassing for the trusteeship and trying to outbid one another.

Section 20 (b).—If it is thought expedient to retain the provisions as to appointment of private trustees in certain cases, then I would suggest that a trustee once appointed and approved by the Court should be removable from his office only by order of the Court on cause shown. It seems to me that this sub-section will increase the difficulty of getting proper persons to accept the office, inasmuch as it makes their tenure of office dependent upon the will of the creditors. The trustee should hold office, during good behaviour and not at the will of the creditors.

Section 21.—I think the power to appoint a committee of inspection will be as little used as the power to appoint a trustee, and that, whenever it is used, the committee will serve no useful purpose, but will be a hindrance to the proper discharge of his duties by the trustee. I would, therefore, entirely omit this section. In the event of a private trustee being appointed the functions which the Bill gives to the committee of inspection might be exercised by the Official Receiver, while in cases when that officer is acting as trustee no controlling or inspecting authority other than the Court would seem to be necessary.

Section 22.—See my note on section 17, *ante*.

Section 23.—This and the three following sections should prove most useful. One of the great defects of the present Act is that it is comparatively easy for the insolvent to keep the Court and the Official Assignee at arms' length.

Section 24 (1).—I would add "or any creditor who has proved his debt" after the word "trustee."

Section 24 (4) and (5).—Instead of the words "If any person on examination before the Court admits" I would say "If it shall appear to the Court on such examination that any person is indebted," &c. I would further suggest that the Court should be empowered to order the person examined, or any other person, to deliver any money or property which the examination showed him to have received from the debtor under such circumstances as to render it a fraudulent preference, also any property which the debtor has settled upon him by a settlement which would be void under section 41, and also any property which he appeared to hold *bénéficiaire* for the debtor.

Section 27 (3).—The following might be added to the list of *facts* proof of which shall render a bankrupt liable to have his discharge refused or suspended, namely:—(1) failing to give proper assistance in the realization of his assets; (2) procuring or assisting any person to raise a false claim to property of the bankrupt; or it would perhaps be better to add these to the offences punishable under section 105, in which case it would be unnecessary to repeat them here.

Section 27 (5).—When there are creditors residing out of India longer notice than 14 days should be given.

Section 27 (7).—This ought to be useful. One of the great difficulties of the present Act is that, in the great majority of cases, insolvents after obtaining personal discharge take no further trouble and give no assistance. The only way of punishing them is by refusing them final discharge, but this is practically ineffectual, as about 90 per cent. of the persons who become insolvent never apply for final discharge.

Section 32.—Would it not be well to specify who shall take the account—whether the Court or the trustee?

Section 33 (1) (d) and (e).—The present Act gives six months' wages, which seems reasonable.

Section 38 (2).—The present Act gives Rs. 300 as the limit of value of excepted articles. That does not seem excessive, especially in the case of Europeans.

Section 38 (2).—The concluding words of this clause seem to be unnecessary in India.

Section 48 (1).—The time allowed to the trustee to disclaim onerous property is the same as that given by the English Statute; but the circumstances of the two countries are so different that that time would frequently not suffice in India. I think the various periods mentioned should be doubled.

Section 50.—I have already said that I believe a committee of inspection will be rarely appointed, and even when one has been appointed I do not think the trustee should be obliged to ask its permission before he can exercise the powers specified in this section. To obtain that sanction will almost always involve delay, and in many of the matters specified expedition may be of the utmost importance. In cases when a person other than the Official Receiver is acting as trustee I would suggest that he should obtain the permission of the Official Receiver to exercise these powers. When the Official Receiver is acting as trustee he might be safely left to exercise them on his own responsibility and without sanction. See note on section 20.

Section 51 (2) and (3).—In a large number of cases it is quite impossible to declare a dividend within four months after the adjudication, or indeed to specify any time within which it will be possible to declare a first or any subsequent dividend. I would omit these two sub-sections. The words in sub-section (1)—"with all convenient speed"—will suffice to show that the trustee is to avoid all needless delay, and it will always be open to the creditors to bring undue delay to the notice of the Court.

Section 52 (2).—It will not always be possible to declare dividends of joint and separate property together, for instance, in the not uncommon case of a partner whose separate estate is not sufficient to pay any, or more than one, dividend, while the joint estate may suffice for several dividends; or the perhaps still more common case when the separate estate can pay 10 per cent. at once, while the difficulties connected with the winding up of the business render it impossible to declare a dividend on the joint estate for many months.

Section 57 (1) and (2).—For the reasons given in my notes on sections 20 and 50 I would omit the reference to the committee of inspection and would substitute the Official Receiver as the authority to give the requisite permission to a private trustee, while in cases in which the Official Receiver is acting as trustee would allow him to exercise the powers without previous permission.

Sections 59 to 62.—Part IV, which treats of Official Receivers, is one of the most important parts of the Bill, and seems to me to require a good deal of amendment to make it, as it should be, one of the most useful.

In the first place I would observe that the title "Official Receiver" will be likely to cause some confusion. There is already in Calcutta an officer whose official designation is Receiver of the High Court, but who is commonly described as the Official Receiver. Why not return for the officer to be appointed under the new Act the title of "Official Assignee," with which the Indian public are now familiar?

I would submit that in common with it should be expressly provided that the persons who, when this measure passes into law, may be Official Assignees of the present Insolvent Courts should be appointed to be the first Official Receivers (or whatever other title may be given to that officer), and that the rights of their respective establishments to employment not less remunerative than they now enjoy, or to compensation, should be expressly preserved. The Bill to amend the Insolvency Law, introduced by Sir J. F. Stephen in 1871, proposed to substitute Comptrollers in Bankruptcy for the Official Assignees and contained an express provision that the existing Official Assignees should be the first Comptroller in their respective Presidencies. Similarly the English Act of 1883 (sections 94 and 153) saves the rights of all persons holding office under the old Act.

The only reference to the Official Assignee made in the Bill is in section 134 (4), which provides that proceedings pending when the measure comes in to force shall be continued as if the Act had not been passed, and that for the purposes of such proceedings the Official Receiver shall be deemed to have been appointed Official Assignee. This shows that the framers of the measure consider the new officer analogous to the old one, and it would certainly save much confusion, so long as my proceedings continue under the old law, that is to say, for at least two or three years after the new law comes into force, if the Official Assignees are retained in office as Official Receivers, and use is made of their experience to bring the new procedure into working order.

In a country like India where fraud is not only more common and more subtle, but where the facilities for its successful prosecution are infinitely greater, than in England, it is in the highest degree essential that the powers of the Official Receiver or Trustee be continued to use the tribes used in the Bill, although I have suggested that the former should be changed and that trustees should be altogether omitted—should be strengthened.

One of the main defects of the existing law, and one of the principal reasons,—perhaps the principal reason,—why it works so unsatisfactorily, is because of the very limited power it gives to the Official Assignee. I admit that these powers are theoretically fairly extensive, but practically they are all but non-existent. He can hardly take a step save at great risk of personal liability. To give only a few examples: an insolvent has no property in Calcutta, but the Official Assignee is informed, perhaps by the insolvent himself, that there is large property in the Mufassal; he takes possession of that property and proceeds to sell it; it almost invariably happens that a number of claimants spring up, who at once file suits against him in the local Courts; the Official Assignee having no assets in hand, is obliged to decide whether to withdraw from possession at once at the risk of being blamed by the Court or the creditors, or to defend the suits at the risk of being made personally liable for costs. Or again, the Official Assignee ascertains that property which is in the possession of a third party is really the property of the insolvent; if, as often happens, he has no assets, he cannot seize that property without exposing himself to the risk of being held personally liable in a suit for damages. I might multiply instances of the difficulties which confront the Official Assignee under the present law, but I will give only one more—one of not uncommon occurrence. A man files his petition with no other object than that of gaining time and avoiding arrest; he brings in little or no assets, and, as soon as he has got his order for *ad interim* protection, he studiously absents himself from the Official Assignee's Office, and begins behind that Officer's back, to settle with his creditors taking the more importunate first. If the operation takes a long time he applies from time to time for an adjournment of the hearing; and when he has thus purchased the acquiescence or silence of all of them he comes before the Court; there is no opposition, and he gets his discharge almost as a matter of course. This is generally the true explanation of a very common occurrence in the Insolvency Court, namely, the sudden and apparently unaccountable collapse of an opposition which had commenced with every appearance of vigour and *bonâ fides*. It is easy to say that when the Official Assignee has reason to believe that anything of this kind is going on he has only to bring it to the notice of the Court, and to apply for an order which shall force all creditors who have been paid behind his back to disgorge. But this is not so easy in practice as in theory. When there are no assets, or only nominal assets, in the Official Assignee's hands, it is practically impossible, and even when he has assets he cannot do it, as the law now stands, without running the risk of personal liability for costs.

For these reasons I think that the principal ministerial officer in each bankruptcy should be invested with very extensive inquisitorial, and even quasi-judicial, powers. He should be empowered to enter upon the premises of the debtor at all times, and to seize any property which he has reason to believe to be the property of the debtor, even though it be in the actual possession of a third party. He should be allowed to summon before him the debtor or any person whom he believes to be in a position to throw light on the debtor's affairs, and to examine them upon oath; perjury committed on such examinations should be liable to the same punishment as perjury committed in Court, and disobedience to such summons should be treated as a contempt of Court and a ground for refusing discharge; in all suits brought by or against him he should be described by his official title, and no suit should lie against him personally for any act done by him *bonâ fide* in the performance of his duties; he should be entitled to two or three months' notice prior to the institution of any suit against him, and suits not instituted within twelve months from the date of the cause of action should be barred; he should be allowed to apply to the Court at all times for advice and instructions, and should have power to bring before it any debtor or person whom he suspects to hold property of the debtor. If an estate is being administered by a private trustee, that trustee should have all, or most, of the same powers and privileges. It may perhaps be objected that such powers are too extensive to be conferred upon any person whom the creditors might select as trustee. That may be, and I think is, a strong argument against the whole system of private trusteeship in Indian bankruptcies. But it does not follow that the powers are too extensive to confer upon a responsible public officer, who would doubtless be selected with a view to his special fitness for their exercise, and who, it may be presumed, although the Bill does not expressly say so, would in all cases be a professional lawyer. It might be well to provide expressly that the Official Receiver shall always be a barrister.

Finally, if the provisions as to private trustees are not abandoned, then the Official Receiver should exercise over private trustees the functions which the Bill gives to the committee of inspection; the trustees should be subordinated to his authority and control, and should be required to furnish him with periodical accounts and reports, and to obey his directions in all matters respecting the estates under their charge.

Section 63.—If, as I have already suggested, the idea of allowing private trustees is abandoned, this section will be unnecessary or will require much alteration. Assuming, however, that that idea is retained as part of the Bill, I would remark that the proposed method of remunerating trustees by a commission, calculated partly on the assets realised and partly on the amount distributed in dividends, is very much fairer than the present system, whereby the Official Assignee is remunerated only by a commission on dividends—a system which has the result

that a large number of estates, some of them involving great labour and responsibility, bring him absolutely no remuneration. But I fail to see the justice of denying him commission on sums which he may pay to secured creditors out of the proceeds of their securities. If he has the trouble of realising these securities he should surely be paid for that trouble. This is recognised by the general rules passed under several of the English Bankruptcy Acts (see General Rules under Act of 1883, Nos. 65 to 69), which direct that when a trustee sells mortgaged property under order of Court his commission and costs shall be a first charge on the proceeds.

I would further remark that the fixing of the remuneration should not be left to the creditors: to do so will give rise to bargaining and will have the effect of degrading the office of trustee. The remuneration should be regulated either by the Act or by a rule of Court.

Section 64 (3) would seem to imply that the trustees must get the sanction of the Court before employing solicitors, auctioneers, &c. This will necessitate frequent applications to the Court, always attended with more or less expense and delay. The employment of such persons might be left to the discretion of the trustee.

Section 65.—The provisions regarding the bankruptcy estates account will impose considerable labour upon the Court, and will necessitate the creation of a new establishment. At present all moneys and securities belonging to insolvent estates are deposited in the Bank of Bengal in the name of the Official Assignee, and that officer has a staff which is specially adapted for, and well acquainted with, the keeping of the necessary accounts, while the fact that his accounts are regularly and strictly audited by the Comptroller General's Office affords an effectual guarantee against fraud or carelessness. I have already suggested that the Official Assignee should be appointed Official Receiver, and that his staff should be taken over by the Official Receiver. I would add the further suggestion that the bankruptcy estates account should be kept in his name and under his control, the system of a Government audit and a half yearly report by the auditors to the Chief Justice being continued as at present.

Section 67 (1)—The investment in Government securities should stand in the name of the Official Receiver, and the interest should be devoted to paying his salary and pension (if he is to be remunerated by salary), the salaries and pensions of his establishment, his office and audit charges, and to the costs of advertising and of administering poor estates, so as to leave as large a portion as possible of the assets available for the creditors. This is the present system, which was established many years ago with the sanction of the then Chief Justice on the recommendation of the auditors of the Official Assignee's accounts. It has the advantage of utilising for the general purposes of administration of insolvent estates a large number of cash-balances of individual estates which, by reason of their smallness or liability to immediate demands, could not be separately invested. It removes from the corpus of individual estates the heavy burden of a proportional share of the cost of administration, and substitutes a simple and economical machinery for a clumsy and costly system.

Section 67 (2)—The proposed procedure will take time and cause some expense. If the invested funds are allowed to stand in the name of the Official Receiver for the time being, he can, when necessary, sell them with a minimum of delay and expense, and the audit will be an effectual check upon any misuse of that power.

Section 68.—In this section I would substitute "Official Receiver" for "Court" in respect of all cases in which a private trustee is appointed. Where the Official Receiver is acting as trustee the regular Government audit of, and periodical report upon, his accounts will suffice. These alterations would save the Court much labour, without diminishing the efficacy of the proposed checks.

Section 72. My remarks on section 68 will apply, *mutatis mutandis*, to this section also.

Section 79.—I would substitute the words "Official Receiver" for "committee of inspection." See notes on sections 20 and 50, *ante*.

Section 88.—The delegation of powers to a Judge of the Small Cause Court seems most objectionable. The time of the Judges of that Court is already very fully occupied; examinations of debts or of persons suspected of having in their possession property of the debtor frequently take up several days, and it is certain that in a large number of cases the Small Cause Court would not be able, without a considerable increase to the number of Judges, to give those matters the time and attention they require. Moreover, complicated and difficult questions of law arise so frequently in bankruptcy proceedings that it is most desirable that every step should be taken before a Judge of the High Court. In accordance with the Select Committee on the Small Cause Courts Bill of 1880 in thinking that unless the Small Cause Courts are to hear cases which, owing to their length, intricacy and difficulty, ought to be removed to the High Court, the saving of time to the latter tribunal will be altogether unimportant. If, as I have suggested, the powers of the Official Receiver are extended, he will be enabled to dispose of a large portion of the petty business. Should his aid not suffice, it would, I believe, be found better and cheaper to appoint a special Registrar for bankruptcy business, as in England, than to delegate a portion of this business to the already overburdened Small Cause Court.

Section 91.—If the Bankruptcy Court are allowed to delegate powers to a Small Cause Court Judge, there should be a provision for appeal from his orders.

Section 94.—I think it would be advisable to empower the Court to give the carriage of proceedings to the Official Receiver or trustee, whenever it has reason to suspect that the want of diligence on the part of the petitioning creditor is due to his having made an illegal arrangement with the debtor. The case is one of frequent occurrence in the country.

Section 103 (b)—I would omit the words "with the permission of the Court," as their retention will necessitate frequent applications to the Court with their attendant delay and cost. The Official Receiver, as a permanent officer of the Court, may be entrusted with a wide discretion, and his position will be a sufficient guarantee against abuse of that discretion.

Section 105.—The following offences, all of which are common in this country, might be added to the list of offences which will render a debtor liable to punishment under this section, namely:—fraudulently making away with property; improperly interfering with, or hindering, the trustee in the realization of the bankrupt's property; doing, or procuring, or being doing, any act which is likely to prevent the disposal of the property at its full value (for instance, inducing creditors to absent themselves from the trustee's sales); showing fraudulent preference to any creditor; entering into a composition with his creditors, or any of them, without giving notice thereof to the Official Receiver or trustee; inducing any creditor by an illegal gratification or promise to withdraw, or neglect to proceed with, a petition, or to acquiesce in the discharge of the bankrupt.

Section 110.—The Bankruptcy Court should be empowered to try offences under the Act, and to pass sentence, without sending the offender to the ordinary Criminal Courts.

Section 113.—This section would seem to exclude ordinary business partnerships from the operation of the Act. It is not, however, likely to be held to have that meaning, as it follows the words of the English Statute, and there is no doubt that such partnerships are constantly adjudicated in England. Still it might be well to make the wording clearer.

Section 132 (2).—The present system of investing unclaimed dividends in the name of the Official Assignee, and devoting the interest to the maintenance of his office and to administering poor estates, works well, and there seems no reason why it should not be continued. See note on section 67 (1) *ante*.

Schedule II.—The English rules regarding the sale of mortgaged property and the taking of mortgagees' accounts (General Rules 65 to 69) are frequently followed here. They have been found to work admirably and to effect a considerable saving of time and expense in realizing mortgage securities. I would suggest their incorporation in this schedule. The rules in question are substantially the same as those issued by Lord

Loughborough in 1794, and the fact that they have been retained, with slight alterations, under the various Bankruptcy Acts passed since that date is strong evidence of their utility.

I have now finished my remarks on the Draft Bill, but before closing my note I desire to add a few words on subjects not mentioned therein.

First.—I submit that Chapter XX of the Civil Procedure Code should be repealed as regards the local limits of the Courts created under the new law. There seems no valid reason for maintaining in the same place two entirely distinct systems of insolvency law. That the application of Chapter XX to the Presidency-towns has not caused very great confusion is, I take it due only to the rarity of the instances in which the provisions of that chapter have been used. There is, however, a recent case in which the two systems came into direct conflict. I allude to *Pugh v. Hulse* (1 L.R. 11 Cal.). The defendant, Mr. Hulse, was on his own application declared an insolvent under the Civil Procedure Code, and was on the same day adjudicated under the provisions of 11 & 12 Vic., c. 21, on the petition of the plaintiff. The fact that the Official Assignee, in whom his estate became vested under the latter proceeding, was also appointed Receiver under the former, alone prevented the raising of serious difficulties and confusion. Moreover, the principles of the Civil Procedure Code (insolvency), although they may be adapted for the Mofussil, are altogether unsuited for the Presidency-towns, and will be quite out of place beside the elaborate system of the new measure.

Second.—The introduction, either as part of the Bill or as a separate enactment, of a system of compulsory registration of mortgages on moveable property, similar to the English Bills of Sale Acts, would be a most valuable auxiliary to the bankruptcy law. It is a matter of frequent occurrence, when a tradesman comes before the Insolvent Court, to find that his entire assets are mortgaged to one or two creditors, and that he has been trading for years on a credit which he would certainly never have obtained but for the very means of ascertaining the real state of his affairs. A notable instance of this kind occurred some months ago, when, on the occasion of a well-known and old established trading firm in Calcutta becoming insolvent, it transpired for the first time that their entire stock-in-trade and outstandings were mortgaged to two creditors, who stepped in at once and seized and sold the property. There are some 500 other creditors, to some of whom the firm owed large sums, and none of whom are likely to get any dividend. The entire assets having been swallowed up by the mortgage debt. It may safely be assumed that had the mortgages been registered, thus affording the public an opportunity of learning their existence, the firm in question would not have obtained such long and extensive credit, and many of the 500 unsecured creditors would have been saved from serious loss. This is only one of many similar instances which have occurred lately.

Third.—A system of compulsory registration of business-partnerships would also be highly valuable.

Fourth.—The system of what are known as *hukm* transactions is one of the most serious difficulties in the administration of insolvent estates and if any means could be devised of grappling with it so effectually an enormous boon would be conferred upon the country. I am well aware of the great difficulty of the subject, and I merely throw out this suggestion as one which might be appropriately considered concurrently with the amendment of the bankruptcy law.

From C. A. WILKINS, Esq., Registrar, High Court, Calcutta, to Secretary to Government of India, Legislative Department,—(No. 570, dated 27th February, 1886).

In continuation of my letter No. 3013 of the 3rd November, 1885, I am directed to forward the accompanying partial copy of a report prepared by a sub-committee of the Judges of this Court, as well as a partial copy of a note by the Official Assignee, on the provisions of the bill to amend and consolidate the law of Bankruptcy and Insolvency in British India.

2. I am to request that you will be good enough to submit these papers for the consideration of the Governor General in Council.

3. I am to inform the High Court concerning generally in the observations made by its sub-committee, and that any further observations that may occur to any individual Judge will be communicated in due course for the information of His Excellency in Council.

Report of the Committee of Judges appointed to consider the provisions of the Bankruptcy Bill.

We regret the loss of time which has occurred since the Bankruptcy Bill was submitted for our opinion; but the changes which are sought to be introduced by the Bill require grave consideration, and it has therefore been impossible to avoid the delay which has taken place.

We have held repeated sittings, and have come to the conclusions which are hereafter particularly mentioned.

We were met by the preliminary difficulty that the Bill as drafted is, as it professes to be, a reproduction of the last English Bankruptcy Act, introducing English law and methods of procedure and English phraseology, and we had to decide whether the proposal to introduce the English Bankruptcy Act with modifications into our country offered advantages sufficient to counterbalance the mischief of completely uprooting a system to which, from the practice of many years, the Court, the practitioners and the suitors had become accustomed.

We have come to the general conclusion that much of the substance of the English law and system of procedure may be introduced in India, but that some important parts of it are wholly inapplicable.

On the other hand we think it preferable to adopt the phraseology of the English Act, except where there is strong reason for not doing so, as thereby the Courts in this country will have the assistance of the decisions of the English Courts.

For the sake of convenience we have dealt with the Bill in the order of the sections.

The following are our recommendations:—

1. We think the proposed form of legislation open to question. An enabling Statute followed by an Indian Act will give rise to questions as to whether the Indian Act has exceeded the powers given to it by the English Statute. The best course will be for the Indian Legislature to pass such Act as may be deemed suited to the requirements of the country, and then to obtain from Parliament a Statute confirming and ratifying the Indian Act.

2. We do not think that the provisions for the appointment of trustees and of committees of inspection are suited to this country. It will be very difficult in most cases to induce creditors to meet together, and in many cases it will be quite impossible to expect creditors residing at a distance to attend any meeting.

Power is given to the Court by section 17 of the Indian Insolvent Act (11 & 12 Vic., cap. 21) to order the election of assignees by the creditors; but such power has rarely, if ever, been exercised. As far as we can ascertain, in only one case in recent years have creditors applied to the Court for an order under this section; but, although this shows that creditors prefer to see the estates of insolvents administered by the Official Assignee, there would be no harm in inserting in the new Act a provision similar to that contained in section 17 of the present Act.

Shortly, the objections to the administration of insolvent estates by creditors through trustees and committees of inspection are—

- (1) danger to the interests of creditors residing at a distance: the whole administration would be in the hands of Calcutta creditors;
- (2) the general body of creditors would not place the same amount of confidence in a trustee or in a committee of inspection as they would in a competent court officer such as the Official Assignee;
- (3) the expenses of an administration by the creditors would be very large: in all cases the trustee, and in many cases the committee of inspection, would have to be remunerated; the former would be paid by commission, but the latter would be paid according to the number of their meetings, and would therefore not be inclined to expedite the winding up of the estates; with an Official Assignee representing the creditors, the legal expenses of the administration are minimised, as the Official Assignee is usually a Barrister of some standing; in the case of administration by the creditors, no step would be taken without legal assistance, which would have to be paid for out of the estate.

For these reasons we would strike out from the Bill, as now drawn, the following sections, namely:—sections 11, 14, 17, 18, 19 (sub-sections (2) and (3)), 20, 24, 22, so much of section 23 as relates to meetings of creditors, sections 63 to 81 (note infra), section 103, sub-section (b), and section 118; and the following sections will require alteration, namely:—sections 17, 50, 110 and 132. The first schedule will also become unnecessary.

3. We think it important that the insolvency sections of the Procedure Code should cease to apply to the Presidency towns.

As the law at present stands it is possible for a debtor in Calcutta to seek relief from his debts both under the Civil Procedure Code and under the Insolvent Act. The main advantage to an insolvent of proceeding under the Code is that he can under section 395 be relieved from imprisonment as soon as he is arrested. The main advantage of proceeding under the Act is that if he or a trader he can get his final discharge without paying any portion of his debts. There are also many other points of difference between the two systems of insolvency, that under the Code being very unsuited to the requirements of a commercial city like Calcutta.

The disadvantages of having two different systems of insolvency law and procedure applicable to the same place do not require enumeration. They have been made apparent in two cases, in which recently attempts have been made to work the two systems concurrently in the matter of *Hasta*, L. R. 11 Cal. 151, and in the matter of *Leckie*, now pending.

4. We recommend that the expression "vesting order" should take the place of the expression "receiving order" in the Act, and that the court officer to whom the management of the estates of insolvents is to be entrusted should be called the "Official Assignee" and not the "Official Receiver." There is already an Official Receiver of the High Court, and the appointment of another officer with the same official designation but with different powers and duties would lead to confusion.

5. Section 3, sub-section (1) (a), should be altered to meet the case of a man carrying on a business by himself, or by his agent or agent-broker, and closing such business. Under the 9th section of the present Insolvent Act, a trader who with intent to defraud his creditors departs from his usual place of business within the jurisdiction of the Supreme Court is liable to be adjudicated an insolvent, and it is on this ground that most adjudications are made.

We do not think that paragraphs (c) and (d) of sub-section (1) of section 3 ought to be retained. In their place we would recommend the introduction of provisions similar to those contained in sections 8 and 9 of the present Act, as to persons lying in prison 21 days, or as to fraudulent executions, including not only executions in fraud of creditors generally but also executions in fraud of fraudulent preferences.

6. The effect of the proposed Act would be to take the insolvency jurisdiction of the High Court. By section 18 of the Charter of the Calcutta High Court (1865) it is provided "that the Court for Relief of Insolvent Debtors at Calcutta shall be held before one of the Judges of the High Court of Judicature at Fort William in Bengal; and the said High Court, and any such Judge thereof, shall have and exercise, within the Bengal Division of the Presidency of Fort William, such powers and authorities with respect to original and appellate jurisdiction and otherwise as are constituted by the laws relating to insolvent debtors in India." By section 5 of the Indian Insolvent Act, an insolvent debtor who is in person within the limits of the town of Calcutta, or who resides within the jurisdiction of the Supreme Court at Calcutta, can petition for relief. The Supreme Court at Calcutta had a personal jurisdiction over all European British subjects residing in Bengal. Their jurisdiction over persons other than European British subjects was limited to the town of Calcutta. It is settled law that the effect of these provisions is to entitle all European British subjects who reside in Bengal to petition for relief from their debts, but that persons other than European British subjects cannot so petition unless they actually reside within the limits of Calcutta. In the cases of creditors' petitions the only limit of jurisdiction seems to arise from the acts of bankruptcy, some of which are restricted to the areas mentioned in the Insolvent Act. This is not a question of a choice between two jurisdictions, as the insolvency procedure applicable to Courts outside Calcutta cannot pretend to be efficient or to meet in the smallest degree the requirements of the commercial classes. We think therefore that the present insolvency jurisdiction of the High Court in this respect should not be curtailed.

7. We think that in the case of a debtor's petition the vesting order should be made at once, and as a matter of course, on the receipt of the petition.

In the case of a creditor's petition we think that, as at present, if a *prima facie* case be made out on the petition, the debtor should be adjudicated an insolvent and his property vested in the Official Assignee at once. Any delay in making the vesting order would make it impossible in most cases to save any of the debtor's property for his creditors. In order to prevent the risk of an improper adjudication it will be well to provide that the debtor may at any time before his public examination come in and apply to have his adjudication annulled, and that it shall be so annulled unless the creditors satisfy the Court that the debtor has committed an act of bankruptcy. Section 19, sub-sections (2) and (3), might therefore be omitted from the Bill.

8. Section 6 of the proposed Bill does not clearly provide for *ad interim* protection orders, and therefore we recommend that power should be given to the Court, in terms similar to the provisions of section 13 of the Indian Insolvent Act, to grant orders for the protection of insolvents for such time as the Court might direct. The granting of such protection should be within the discretion of the Court, and the Court should have power to revoke a protection order at any time.

9. We think that the mode "act that a majority of the creditors in number and value are resident in the United Kingdom or any other part of Her Majesty's dominions beyond the limits of British India" should not give a creditor or other person a right to set aside an adjudication, and we recommend that in section 13 of the Bill the above words should be transposed and placed between the words "the debtor" and the words "other creditors" in the same section.

10. With reference to section 15, sub-section (1), we think that the statement of affairs should be filed in court, and that a copy should be filed in the office of the Official Assignee. It is necessary that there should be two copies, and it is desirable that of the two the one filed in court should be taken as the original statement with respect to sub-section (1) of section 15. We think that the statement therein mentioned should be in a written application for inspection, to be filed in court.

11. Section 16, sub-section (2), should empower the Court at any subsequent stage to reopen the public examination and to order a fresh examination of the debtor.

12. We do not think that in this country any creditors, however superior in number or value, should be able to force a composition upon the other creditors.

13. Section 23 should require the insolvent to attend at the Official Assignee's office or wherever required by the Official Assignee, and to give that officer every assistance in realizing his estate and distributing the proceeds.

14. All references to a *bankruptcy-notice* should be struck out of section 24.

15. In addition to the powers mentioned in section 24 we think that the Court should have power at any time after a vesting order has been made, upon application by the Official Assignee *ex parte*, to make an order empowering the Official Assignee to take possession of any property as the property of the insolvent. With regard to such property and also with regard to other property which may be claimed by the Official Assignee or the creditors to belong to the estate, we think that the Court should have the same power as in a regular suit, and with the same right of appeal to determine finally all questions between the insolvent's estate and persons in possession of or claiming such property. The High Court should be empowered to frame rules of procedure for the trial of these questions, and also for the payment of the expenses of witnesses to be examined under section 26.

16. Section 27 of the proposed Bill seems to place upon the opposing creditor the burden of proving that the debtor is unworthy of obtaining his discharge. We think that a debtor should, before any relief is granted to him, satisfy the Court, not only that he has not been guilty of the acts specified in the Bill as disentitling him to his discharge, but also that he has been neither dishonest in his dealings nor culpably imprudent in respect of his personal expenditure or the conduct of his business. This principle has been recognized by the legislature in section 351 of the Civil Procedure Code.

We think that section 27 should be altered so as to permit the debtor, should the Court refuse to grant him a discharge, to renew his application for such discharge at a future date; otherwise it might be held that if the Court had once refused to grant an order of discharge the debtor was for ever thereafter debarred from obtaining such discharge. On the other hand it will be necessary by some limitation to prevent frequent applications to the Court upon the same materials.

17. It will be necessary to provide for the discharge of the debtor in the case of the whole body of his creditors releasing him from the whole or a portion of his debts. Section 58 will also have to be altered to meet this event.

18. With reference to section 29 of the Bill we think it will be as well to give the Court power in discharging an insolvent to exempt him from arrest, either generally, or with the exception of particular debts, or after such period as to the Court may seem fit.

We would also recommend that in this section the words "any person for any offence against an enactment relating to any branch of the public revenue" should be struck out, and that the words "Secretary of State" be substituted therefor.

19. In the case of an adjudication being annulled on the ground that the debt alleged by the petitioning creditor was not a good debt, we think that the Court should have power to allow the bankruptcy to proceed as upon the debt of another creditor.

20. With reference to section 36, we would point out that in Calcutta rents are payable monthly, and that, therefore, the landlord should not be entitled after the bankruptcy to levy for more than three months' rent.

21. With regard to section 37 we think that in the case of a debtor's petition the assignee's title should commence at the date of the vesting order, and not before.

22. We do not think that an attaching creditor should be entitled to any priority over other creditors, unless the proceeds of execution have been paid to him. This alteration might be effected by striking out from section 39 the words "received in the course of execution by sale or otherwise," and substituting therefor the words "actually received by such person."

As the law at present stands, a creditor who procures an attachment before the vesting order is in a better position by reason of the insolvency of his debtor than he would be without it, as he obtains a title preferable to that of the general body of creditors; and other decree-holders who would, under the Code, on obtaining orders for attachment, be entitled to share *pari passu* with him, are prevented by the insolvency from effecting attachments.

23. Section 50 should be altered so as to give the Official Assignee, with the leave of the Court, power to do the acts therein mentioned.

24. As to sub-section (1) of section 62, the only part which, having regard to our previous recommendation, need remain, is the part relating to advertisements. The duties, powers and liabilities of the Official Assignee should, however, be clearly defined. We think that his liability should only extend to assets in his hands, unless the Court should find that he had not acted *bona fide* in the performance of his duties. We also recommend that he should be entitled to at least one month's notice of action in respect of acts done by him in his official capacity.

25. In sub-section (2) of section 62 the words from "but shall" to "claiming to be creditors" should be struck out.

26. Part V of the Bill requires alteration to meet the case of the Official Assignee, who is an officer of the court. The Court should have power to determine the amount of commission or percentage payable to him. We think that if, at the request of a secured creditor, he realizes the security, the Court should have power to sanction the payment to him of a percentage on the amount realised.

27. We do not think it desirable that the extension of the Act to local Courts as contemplated by section 82, clause (c), and section 83, clause (c), should be carried out, except through the action of the supreme legislature.

28. We have already discussed the effect of section 83, clause (a).

29. We think that section 85 should be struck out, and that the Insolvency Court at Calcutta should have power to transfer to itself any insolvency proceedings under the Civil Procedure Code which may at any time be pending in the Civil Courts subject to the High Court.

30. We think that section 89 should be struck out.

31. It should be made clear that the powers proposed to be given to the Court by section 90 extend to persons other than insolvent debtors and their creditors.

32. Having regard to our other recommendations, section 99 requires alteration, and section 103 (b) and the proviso at the end of section 103 should be struck out.

33. If section 109 is intended to apply to compositions under the Act, it should in our opinion be struck out.

34. We presume that it is intended by section 113 to prevent a receiving order being made against a partnership in its firm name. If so, the section should be made clearer.

35. We do not recommend that estates of persons dying insolvent should be administered in the Bankruptcy Court, except in the cases where they die during the pendency of bankruptcy proceedings.

36. Having regard to our previous recommendations, it will be unnecessary to refer to the second paragraph of section 122.

37. We think that the rights of present officers of the Insolvent Court in respect of pension or otherwise should be saved.

In conclusion we wish to remark that in this report we have only called attention to the general principles on which we think the Bill requires alteration.

There are many questions of detail which will have to be considered before a Bankruptcy Bill is passed into law.

(Signed) A. WILSON.

(") J. PIGOT.

(") E. J. TREVELYAN.

From S. E. J. CLARKE, Esq., Secretary, Bengal Chamber of Commerce, to Secretary to Government of India, Legislative Department,—(dated 30th April, 1886).

My Committee have submitted their remarks upon the new Bankruptcy Bill for India to the Government of Bengal, who will doubtless forward them to you in due course, but in order to save time now that the draft Bill is before the Legislative Council I am directed to send you with this letter four extra copies of the Chamber's letter of this date.

From S. E. J. CLARKE, Esq., Secretary, Bengal Chamber of Commerce, to Acting Chief Secretary to Government, Bengal,—(dated 30th April, 1886).

I AM directed by my Committee, in reply to your No. 1335 J. D. of 8th July last, to submit the following observations upon the draft Bill to amend the law of Bankruptcy and Insolvency in British India.

Generally, my Committee are of opinion that the Bill makes a much needed improvement in the law at present in force. Should the Bill become law, and if its administration be carried out with close care and attention, it will do much to simplify proceedings in insolvency and, my Committee believe, to check fraudulent bankruptcies. It will thus afford a larger measure of convenience than heretofore to unfortunate persons, whilst at the same time it will extend to creditors some measure of that protection which the mercantile community especially have long desiderated, and the need for which has been pressed upon the Government at various times by the Chamber of Commerce.

Whilst accepting the Bill as an improvement upon the existing law, my Committee think that in some points it does not sufficiently recognise the peculiar circumstances of India, or the difficulties which these circumstances frequently place in the way of creditors, or the facilities which are offered to Native dealers in evading the payment of their debts. This subject has been long before the Government and the public, and, whilst admitting the difficulties which surround it, my Committee still think it is a matter to be kept very closely in mind in framing any new insolvency law for British India. Indeed, in spite of the failure some years ago, which attended the attempt to frame a Bill to provide for the registration of partnerships, my Committee cannot but consider that it is extremely desirable that a new enquiry should be made with the view to ascertain whether such a registration cannot be secured, or to bring into prominence the existing provisions of the law in India which afford to some extent the protection to be derived from such a measure. Since the failure both in Bombay and Calcutta to draft a satisfactory Bill dealing with this subject some change has come over the views of Native merchants, and the more prominent among them have evinced a desire to have the question reopened. Those who have transacted business directly with English merchants and in the natural development of Indian trade, the number of whom is slowly but steadily increasing, evince quite as much anxiety for the passing of a law to compel a registration of partnerships as the European mercantile community. It would be well if, in connection with so large and important a measure as a new Bankruptcy Bill for all India, a careful and exhaustive enquiry were made into the subject of the registration of partnerships.

Another extremely difficult subject to deal with, but one which, when a bankruptcy measure is before the legislature, should not be overlooked, is the practice of exemption which a fraudulent Native trader can acquire by taking shelter with in the jurisdiction of some Native State. My Committee are aware of instances where Europeans have availed themselves of this shelter to avoid decrees of the High Courts, and though in the case of Europeans the shelter might not be so effectual as in the case of Natives, yet the fact ought not to escape the attention of the Legislature that under present circumstances for a Native insolvent to elude from British into Native territory is to give him an immunity the certainty of obtaining which is found to encourage reckless speculation and thereby to ruin many of our fraudulent traders. The impunity with which a fraudulent Native debtor can set his creditors at defiance, and in special the smallness of the dividends derivable from the estates of Native insolvents, have long been grievances of the mercantile community in this city for very many years. Indeed, so far back as 1871, the latter formed the subject of a reference from the Chamber of Commerce to Mr. John Cochrane, then Chief Justice. What the Chamber then complained of is still a serious ground of complaint. There seems to be no good reason why, with proper precautions, decrees of the Indian High Courts should not be allowed to run in the jurisdiction of Native States. The matter is one which my Committee feel is most properly within the province of the Foreign Department of the Government of India, but they see no reason why the latter Department should not move the Foreign Office to deal effectually with so important a question, or why the Foreign Department should not undertake this task in close communication with the Legislative Department and in concert with the Judges of the High Courts in India. The greater the improvement in the bankruptcy law of India, and the greater the simplicity which may mark the procedure of the Insolvency Courts, the greater will be the anxiety of a Native insolvent who has been guilty of fraud, concealment of property, the setting up of fictitious creditors, or wrongful preference of particular creditors to avoid appearing before an Insolvency Commission, and in this way it may well happen that improvements in law and procedure will have a tendency to concentrate and render more acute the grievance alluded to above and which is felt equally in all the great trading centres of India.

One change of great moment effected by the Bill is that which makes a trustee appointed by the creditors the primary authority for administering an insolvent's estate, whilst the Official Receiver is only to act if the creditors fail to appoint a trustee.

Section 11 of the Bill has the support of my Committee. It should, however, in their opinion, be made clear that, if the creditors of an insolvent will not attend a meeting to consider his position, the Official Receiver shall have the power to act on the premises upon his own responsibility. My Committee do not feel themselves in a position to recommend that the powers now vested in the Official Assignee, which powers they consider all that are reasonably necessary to enable him to take possession of the property of a bankrupt and to realise the same for the benefit of the creditors, should be extended. But with reference to clause (5) of section 26, they can see no objection why a larger measure of protection than he now enjoys should not be given to the Official Receiver. Where it is clear that that officer has acted in good faith, they consider that he should not be held personally responsible in the event of its being shown that he acted under a mistake or upon information wrong in itself but accepted by him as correct. Relief in such cases should, my Committee venture to think, be obtainable not at the expense of the Official Assignee but at the cost of the estate concerned.

It is a frequent subject of complaint that an insolvent's books are not properly forthcoming, that his accounts are confused and in many cases unintelligible, that there is a want of system in presenting an insolvent's accounts, and that schedules are amended in a hasty manner. It is, however, the complaint that appears desirable that the office of the Official Receiver should be strengthened by having attached to it an experienced professional accountant. The books of an insolvent should vest in the Official Receiver from the date of the adjudication order. A report should be made at the next sitting of the Court that the books are either in the Official Receiver's hands or under his authority and control. The records of the estate could then, as might prove most convenient, be made up either in the office of the Official Receiver, where the insolvent would attend for this purpose, or in the insolvent's chambers under the supervision of the Official Accountant. In either case creditors would receive additional and much needed security, time would be saved and a greater interest in the settlement of the estate be exhibited on the part of creditors. It will be seen that the suggestion does not in any way throw obstacles in the way of a bankrupt's access to his books or tend to deprive him of them completely. It would compel him rather to avoid all unnecessary delays, and to furnish the Court with a correct and taken-out of his position as possible at the earliest possible moment. The immediate revision of the presentation of this statement by the Official Accountant, or by the inspection of the books with a view to being drawn up, would effectually deprive insolvents of the many contrivances whereby they put forward for delaying the making over to the Official Assignee of the records of a business. The provisions of the draft Act as to the delivering up of a bankrupt's books should be thoroughly and carefully enforced, and as a necessary means should be provided to secure that the books shall be properly compiled. There are not few men, who, though experienced and capable assistants, to enable them to close their books. As this is not true the knowledge that upon the commencement of an act of insolvency the closing of the books would be a necessary and prompt would lead to greater strictness in the keeping of accounts and would in itself ensure that a public trust which Insolvency Commissioners in India are constantly reprobating. The suggestion that the office of the Official Receiver should be strengthened in the way above indicated has been put forward by my Committee because of the great importance which cannot but be attached to the speedy closing of an insolvent's books. They would prefer that, so far as possible, this should be done by a professional and experienced officer responsible to the Official Receiver and the Court rather than by some skilled but untried agency. In connection with this particular question, and as pointing to a branch of duty which would devolve upon the Official Accountant, it is extremely desirable that information as to the position of an insolvent's accounts should be more generally and more readily available than it is at present. This end could only be attained with the greatest advantage to all concerned. My Committee would therefore suggest that it should be a duty of the Official Receiver or other trustee in bankruptcy to issue a periodical report, duly certified by the Official Accountant, of the progress made in realising the assets of each estate. These reports should be circulated at reasonably brief intervals, and should give creditors all the information needed to enable them to understand the progress made in settling a bankrupt's affairs. It is very desirable that creditors should be encouraged to take a steady and persistent interest in the liquidation of an estate, and nothing seems so likely to produce this result as accurate and frequent reports which will be reduced to a minimum, and that the Official Receiver or Trustee should as a matter of course keep the creditors informed of that which it most concerns them to know. In this way the present practice which now attaches too often to the proceedings in the Insolvency Courts, that they are mere ratifications of a purely formal character, would be done away with and the Courts themselves would be in a better position to judge of the character of an insolvent's dealing, and to distinguish between culpable and non-culpable trading and the unfortunate arising from the necessities of trade or of living.

The suggestion for the periodical circulation of an account of the progress made in liquidating an estate applies equally to a trustee other than the Official Receiver, and is a very desirable one. Hitherto one of the main difficulties in working the existing Act has been that the Official Receiver is not, and it is, in the opinion of my Committee, no duty to be owed to him that they are, and that they are acquainted themselves with all that concerns them as regards an insolvent estate, to come to him for the necessary papers, and to take an active part in the winding up of the insolvent's affairs, so long as they are able to attend meetings or to proceed without knowledge, to arrive at more than a passive position, and to avoid, unless under necessity, attendance at such meetings. When the amount of a bankrupt's estate is small, the chances of getting together the creditors are small, and it is not unusual for creditors to reserve to the Official Receiver power to call a meeting of creditors at his discretion.

The attention of the Committee, in the course of their consideration of the draft Bill, has been in various ways strongly drawn to the question of protection against *ex parte* charges and the fact that the property of a trader who might be actually insolvent at the time of the transfer but who might be able to carry on his business, and thus secure to the transferee some time for a time, is a matter of great importance. Charges of insolvency, are somewhat common and ought to be on a special way given to the Court for consideration. It would seem that sections 28 and 31 of the draft Bill should be amended. It is suggested that as it should be that the property therein indicated, as well as the property of the insolvent, should be in consideration of marriage, or in the case of a voluntary conveyance, or in the case of a settlement provision of the settlor's wife or children, that the property should be held by the Court as an asset of the estate. This section is governed by the provisions of section 31 of the draft Bill, and it is one which should not be left in doubt. So long as there is no doubt as to the validity of a conveyance to evade the law.

My Committee accept the limitation of time imposed after the date of which a bankrupt is liable by persons who may become bankrupts, except in the case of a bankrupt who is a partner in a firm, and liable to *bandini* cases and to the frequency with which such cases arise. The provisions of section 28 of the draft Bill, and section 41 should be made sufficiently wide to take in cases of *bandini* property, and in the way said children or other relatives of bankrupts in the future of property to them, and in the case of a bankrupt, such cases are not provided for in the proposed Act. They would be a very important addition to the law of the legislature. On the one hand, it has been urged that property should be held by the Court as an asset of a Native bankrupt should be presumed to be the property of the bankrupt, and where it is shown to the contrary was shown. But it would be unjust to throw upon a wife or child or other relative the burden of proving that right to property made over to them in good faith and in full view when the property was transferred to them in a position which would make the transfer a mere act of protection. In such cases, if the property is transferred, should the transferee subsequently become bankrupt, would be held that the property should be held for their support. Such cases require protection. Still it is extremely desirable that the provisions should be provided for, and my Committee would commend this subject to the consideration of the legislature.

There is another matter which ought to receive attention, and on which it is suggested that the present opportunity should be taken to provide a much needed remedy. It is suggested that, although there may not be an application to the Liquidating Court, still creditors should be allowed to close a business and take possession of all its assets. In such cases the creditors should be allowed to shut out altogether from participation in the assets, or find their interests protected to the satisfaction of a creditor of whose rights they have been kept in ignorance. That such a state of things is a very serious one, and that reckless trading and still more reckless borrowing. As the law in India is, a trader is not only at the mercy of the representations which may be made to him, and may be induced to invest his money for the assistance of a business which is not only actually insolvent but which may be in a condition where for

all practical purposes it may be said to be carried on for the benefit of the creditor holding a possessory mortgage. In England this class of cases is dealt with by the Bills of Sales Act. Instruments of the kind alluded to must be registered within twenty-one days, and under certain circumstances are absolutely null and void as against a decree of the Court, a trustee in bankruptcy, or in the event of the insolvency of the maker of the mortgage. In India it is very desirable that all instruments of this class should be made to come under the provisions for compulsory registration. The records of the Insolvent Court and the experience of the Official Assignee will amply bear out the necessity for some action such as that just suggested. It seems to convert the Bankruptcy Courts into a shelter for fraudulent dealings when a bankrupt who has deprived the general body of his creditors of security for their claims applies to the Court for protection against any steps they might ordinarily institute against him.

My Committee approve of the provision which retains for India imprisonment for debt. A very great number of Native traders are not subjects of the British Government, and have a means of conveying greater or lesser portions of their assets out of the jurisdiction of British Courts. Another large section of Native traders shelter themselves behind the Hindu custom of a joint family; where such a custom prevails, and where important classes of Native dealers have their domicile beyond the limits of the territories directly administered by the Government of India, it is necessary that imprisonment for debt should be retained even if on general grounds a good case could not be made out in its favour.

Section 34 provides that a limit of Rs. 500 as wages shall be paid, in priority to all other debts, to any clerk or servant who may have rendered services to the bankrupt during four months before the date of the receiving order. My Committee are strongly in favour of a limit in the amount to be paid under this section, but they consider Rs. 500 too low considering the average range of the salaries of assistants. They would make the limit Rs. 1,000, but would require that the amount of wages due to any clerk or servant should be certified by the Official Receiver or Trustee, or the official assistant of the Receiver's office.

Section 35 gives power to a landlord to distrain for one year's rent accrued due prior to the date of the order of adjudication. This provision would appear to be unnecessary considering the powers already ordinarily enjoyed by landlords.

My Committee are not disposed to cavil at the provision contained in section 16 of the Bill. Where the Crown reserves to itself the right to dismiss its servants as a punishment for insolvency, it seems reasonable that it should retain the authority of regulating the amount to be retrenched from the pay of an employee.

It would appear to be in consonance with reason and the spirit of the Bill that the lying in prison of a person under a warrant of arrest executed on a decree of the Courts, as well as the closing of, or departing from, a place of business with intent to elude or delay creditors should be deemed to be acts of bankruptcy on which a receiving order should be made. The latter is under the present law, a ground for adjudicating a trader, and the lying in prison under a warrant of arrest in execution of a decree a ground for adjudicating a non-trader, a bankrupt. There seems to my Committee no good reason why they should be omitted from the proposed Act, more especially as cases can readily be conceived in which the omission of these circumstances as acts of bankruptcy might give rise to difficulty. The lying in a debtor in prison is sufficient to give the proposed Bankruptcy Court jurisdiction, and it ought therefore to be deemed to be an act of bankruptcy. It does not appear to my Committee that paragraphs 19, 20 and 21 of the Statement of Objects and Reasons give any good reason for excluding the jurisdiction of the Courts in cases where persons or personally subject to the jurisdiction otherwise, and by reason of their being imprisoned or having withdrawn in a twelve-month ordinarily resided or had a place of business within the local limits of the Courts' jurisdiction. At present persons who come to Calcutta to sell produce, purchase goods, or to make contracts in this city for such purposes, are in respect of such contracts liable to be sued in the Calcutta High Court.

As the draft Bill is framed a Calcutta merchant who has obtained a decree against a person in the position referred to would be unable to avail himself of the provisions of the proposed Bankruptcy Act for enforcing payment of the amount for which he had obtained a decree. My Committee are decidedly of opinion that it would be a great advantage to the mercantile community if in the proposed Act the bankruptcy jurisdiction were extended so as to embrace all cases in which the High Court has jurisdiction to entertain a suit.

The order and disposition clause, section 38, subsection (7) provides for all moveable property in the order and disposition of a bankrupt, with the exception of the true owner's free debt with us the property of the insolvent. This subsection is not satisfactorily adapted to the order and disposition clause in the present Act. Under the provision of the existing Act it may be held that property held to be the true owner, being a mortgagee, in the possession of a third person resident in India, or of such becomes an insolvent, is not in the possession, order or disposition of the bankrupt within the meaning of the Act, inasmuch as it is not in his sole possession, order or disposition, but in that of himself and his agent partners jointly. It was therefore ruled in *ex parte Gubbay in re Morgan* (1 L. R. 6 Q. B. 623) that the clause does not apply. It is very rare indeed to find in any business, whether carried on by Europeans or Natives, that all the partners are resident, and, this being so, the ruling referred to has a large quantity of cases the effect to a great extent of nullifying the possession, order or disposition clause, which is a very essential portion to be maintained in the interests of the creditors generally of a bankrupt estate. My Committee would therefore suggest that subsection (7) of section 38 of the draft Bill should be amended in a way to meet the criticism which the decision in *Gubbay in re Morgan* has raised. Possibly section 2 of the Bill which provides that a creditor of a firm may proceed in bankruptcy against the firm if the firm is in a state of insolvency, may in the case of some of the acts of bankruptcy specified in section 36 of the Bill get over the difficulty which has been pointed out. But the matter is doubtful, and the question one of such great importance that my Committee consider the doubt should be removed as far as possible.

My Committee cannot accept the suggestion made in section 88 that any of the functions of a Court of Bankruptcy should be delegated to a Small Cause Court Judge. The Small Cause Court is a Court of summary jurisdiction. It is like an overworked with business, and to transfer to it insolvency business would alter the character of the Court, establish direct insolvency jurisdiction in the Presidency towns, and prove an inconvenience in stead of a convenience to the public. The insolvency courts would be to fill up existing precedents and provide for the appointment of a Registrar of the Bankruptcy Court. The work could not be parcelled upon the Registrar of the High Court, for the official in the Calcutta High Court already overburdened with business. A Registrar of the Bankruptcy Court might have delegated to him duties similar to those performed by Registrars in Bankruptcy at Home. He might also perform the functions which under the English Bankruptcy Act are fulfilled by the Board of Trade.

It would probably be found inconvenient if affidavits which have to be made in England and Scotland in cases of Indian bankruptcy should be sworn before the Permanent Commission or other officers appointed by the Indian High Courts to take affidavits in these countries, and that affidavits sworn before such Commissioners should be admissible in bankruptcy proceedings in these countries.

My Committee consider that a trustee appointed under section 20 should under a good case can be shown to the contrary, invariably be a creditor of the insolvent; such a trustee once appointed should only be removable by order of the Court and upon cause shown. My Committee do not think it would further the ends of justice to allow a trustee, so far as his work is concerned, to be at the disposal of the creditors. Besides, by making him removable only by an order of Court, a greater degree of responsibility is obtained, and so much a greater security for the interests of all concerned. Where a trustee is appointed my Committee

incline to think that he should liquidate the bankrupt's estate under the inspection of the Official Receiver, who in such a case would fulfil the functions of a Committee of Inspection.

Section 26 might be amended so as to give the Court power to order, according to the information elicited in the course of proceedings before it, to deliver over any money or property which that information might show to have been received from the insolvent as the result of a fraudulent preference, or also any property vested in him by a fraudulent settlement or which he appeared to hold *beneficiarius* for the bankrupt.

Sub-section (5) of section 27 appears to have taken no account of the possibility of creditors residing out of India. In such a case the notice of 14 days provided by the sub-section would be insufficient. The sub-section might be so amended as to show clearly the distinction between English and Indian creditors as respects the notice.

In section 32 there is an omission. The section provides for accounts to be taken when there have been mutual dealings between a bankrupt and any other person, but does not state to whom the account shall be rendered.

Section 38 gives Rs. 200 as the value of the excepted articles. The existing Act gives Rs. 300 as the value of such articles, and my Committee do not see why this limit should not be maintained in the proposed Act.

My Committee would suggest that the time allowed under section 48 for a trustee to disclaim onerous property should be enlarged from two months to six months. The circumstances of India are in every way so different from those in England, and such great difficulty attaches to a proper ascertainment of the character of properties, that to limit the period of disclaimer under this section to two months only would, my Committee believe, seriously interfere with its working.

My Committee would make the permission vested by section 50 in the Committee of Inspection depend rather upon an order of the Court. The same remark applies to section 57.

Clause (2) of section 52 appears to overlook the radical differences between separate and joint estates. These differences ought to be acknowledged so far that the direction to declare dividends together should be amended and powers given to declare dividends separately.

It would facilitate business if the latter portion of clause (3) of section 64, from the words "The officer shall, &c.," to the words "duly sanctioned," were omitted. If a trustee or manager acts with the permission of the Court under sections 50 and 57, there is no need for him to take further sanction for the details dealt with in this sub-section, more especially as all charges incurred under this sub-section must be taxed.

Referring to section 65, my Committee would not recommend any interference with the existing system, by which bankrupt estates accounts are kept in the name of the Official Assignee and audited by Government officials who submit half-yearly reports on such audit to the High Court. The like remark applies to section 67, clause (1).

In section 94, which gives the Court power to change the carriage of proceedings, my Committee would include besides any other creditors the trustee or the Official Receiver as persons who might be substituted to carry on the proceedings.

In section 103, clause (b), my Committee can see no reason for making the action of the Official Receiver depend upon the "permission of the Court," and would recommend that those words be omitted.

My Committee would add to the offences punishable under section 105 of the Bill the following:—failing to give proper assistance in realising his assets; procuring or assisting to raise a fraudulent claim against the assets of the estate; improperly interfering with the realisation of the assets, fraudulently making away with property; doing that which might result in preventing the disposal of the property at its proper value; showing a fraudulent preference to any creditor or entering into any composition with any creditor, inducing any creditor by an improper preference or otherwise to neglect or delay to proceed with a petition, or to agree to the discharge of the bankrupt.

My Committee cannot approve of the transfer of offences provided for in section 110, and would prefer that the Bankruptcy Court should itself deal with offences under the Bankruptcy Act.

The wording of section 113, providing for the exclusion of partnerships and companies, should be made more clear. As it stands it might be objected that it excludes ordinary business partnerships from the operation of the Act, which is against the present practice as well as against the spirit of the draft Act itself.

My Committee cannot see what utility will result from changing the designation of the "Official Assignee" to that of "Official Receiver". There is already an officer of the High Court known by this latter designation, and to retain the style "Official Receiver" would be to introduce something of confusion and to change a title thoroughly well known and comprehended.

In conclusion my Committee desire me to report their opinion that the draft Bill is an advance upon the existing Act. They would suggest that the legislature should consider the expediency of retaining Chapter XX of the Civil Procedure Code as regards the local limits of the Courts established under the bankruptcy law, and they would again urge that in the consideration of the draft Bill the utmost weight and the most careful attention should be given to the points of difference between the circumstances of England and India.

S. HARVEY JAMES,

Officer, Secy to the Govt. of India.

GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

REPORTS ON THE STATE OF THE SEASON AND PROSPECTS OF THE CROPS FOR THE WEEK ENDING 2nd JUNE, 1886.

GENERAL REMARKS.—Rain is reported generally from nearly all parts of India, except Sind and portions of the North-Western Provinces and Oudh, Punjab, Rajputana, and Central India. The falls have been heaviest in the south of the Madras and Bombay Presidencies, in Northern Bengal, Assam, and British Burma.

In Madras, Mysore, and Coorg the crops are generally in good condition and prospects continue favourable. In Bombay and Berar preparations for the *kharif* continue. In Hyderabad the hot weather crops are still being reaped. Agricultural prospects are generally good in Central India, but in Rajputana the water-supply is failing.

In the North-Western Provinces and Oudh and the Central Provinces *kharif* preparations continue and prospects are good. The *rabi* harvest is still in progress in the Punjab.

In Bengal cultivation is forward, and agricultural prospects are generally very favourable. Prospects continue good in Assam.

The public health is on the whole satisfactory.

Prices are fluctuating in the Punjab and are rising in parts of Rajputana. Elsewhere they are generally steady.

Presidency or Province and District	Rainfall for week under report	State of agricultural prospects.
Madras—(June 2nd)		
Bellary	Average last week since revised, 85; this week, 31	Standing wet crops generally good in parts of two taluks, but water-insufficient to support them; harvest paddy, sugarcane and cotton, yield about average. Cattle-disease in two taluks.
Kurnool	Average 47	Small-pox in three and cattle-disease in two taluks.
Ganjam	Average last week since revised, 62; this week, 52	Slight small-pox in three, fever in two, and cattle-disease in five taluks; slight cholera.
Kistna	Average 752	Slight fever; cholera in ten taluks and one division.
Chingiepu (Madras)	Average 379	Standing crops fair; harvest wet and dry grains, outturn below average. Fever abating in one taluk; cattle-disease in two taluks.
Combatore	Average 341	Standing crops good; harvest paddy and <i>chilum</i> , outturn paddy average, <i>chilum</i> above average. Fever in one taluk and slight small-pox in another.
Tanjore	Average 503	Standing crops damaged by heavy rain and wind; harvest chiefly and cotton, outturn below average. Slight cholera.
Madurai	Average last week since revised, 94; this week, 76	Health of people and cattle generally good.
Malabar	Average 108	Harvest third crop, rice, outturn below average; first crop getting mature. Fever in one, small-pox in eight and cholera in three taluks; cattle-disease in one taluk.
Travancore	673	Harvest paddy, yield average. Small-pox and fever in parts.
Bombay—(June 2nd)		
Kurrachee	Nil	River at Kott on 31st May, 11 feet against 13 feet 7 inches on same date last year. <i>Kharif</i> sowings continue. Fever in seven and cattle-disease in three taluks; small-pox in three villages in the district, eight treble cases still remaining. Prices—wheat, red rice, and <i>bagri</i> in Kurrachee 20, 30 and 34, in Fatta 24, 40 and 40, in Shahbander 20, 32 and 32, and in Kott 23, 40 and 40 pounds per rupee, respectively.
Hyderabad	Nil	River at Kott on 31st May, 11 feet against 13 feet 7 inches on same date last year. Fever in three, small-pox in three, and cattle-disease in two taluks. Price of grain steady. Severe dust-storm at Hyderabad on 27th May.
Ahmedabad	106	Total rainfall 11.5. Weather very hot. Mowing and sowing operations continue. Public health good. Wheat 35 and <i>bagri</i> 33 pounds per rupee.
Baroda	Nil	Public health good. Standing crops in good condition. Prices— <i>chilum</i> 28, wheat 23, and rice 15 pounds per rupee.
Surat	Surat, 101; Baroda, 103; Mandvi, 88	Slight fever and cough in Baroda taluka. <i>Chilum</i> 38 and <i>bagri</i> 40 pounds per rupee.

General Remarks.—General prospects fair.

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
Bombay—contd.		
Nasik	Rain in six talukas	Ground being prepared for early crops. Days very hot; weather cloudy. Public health generally good. Wheat 34, <i>bajri</i> 33, and rice 17 pounds per rupee.
Colaba (Bombay)	So on 26th	Total of week 89. Average abnormal temperature 3° warm on 26th, afterwards 1° warm; vapour in air normal on 26th, afterwards excessive; wind normal on 26th, abnormal wind southerly from 27th to 1st, strong on 27th and 28th; thunderstorm, with heavy showers of rain on 26th; distant lightning on 28th.
Poona	Naval, 12; Haveli, 700; slight showers in four talukas, none at Sirur.	Cattle-disease in Junnar and Bhimthadi talukas. Ground being prepared for sowing. <i>Bajri</i> 33 and <i>juari</i> 45, in Poona <i>bajri</i> 30 and <i>juari</i> 35 pounds per rupee.
Ahmednagar . .	Slight rain	Public health good. <i>Bajri</i> average 44 and <i>juari</i> 59 pounds per rupee.
Sholapur . . .	Barsi, 42; Madha, 13; Karmala, 10; Pandharpur, 31; Sangola, 62.	Land being prepared for sowing in Barsi, Madha, Pandharpur, Sangola, and Malsiras talukas. <i>Juari</i> 59 and <i>bajri</i> 45 pounds per rupee.
Dharwar . . .	Rain at all stations except Ron, varying from 2.15 in Kod to 5.53 in Hubli.	Rice sowing in progress in western talukas; elsewhere land being prepared for sowing early crops. Public health good. Rice 24 and <i>juari</i> 40 pounds per rupee.
Kanara	Karwar, 2.09; Kumbha, 4.08; Sirsi, 2.35; Halival, 5.04.	Total rainfall 5.74. Anthrax continues in Supa; small-pox in Akola, Sirsi and Halival; measles in Karwar. Common rice in Karwar 13; district average 13 seers per rupee. Weather cloudy and warm.
Rajkot	Nil	Weather hot and cloudy. Public health generally good. Wheat 33, <i>bajri</i> 30 and <i>juari</i> 44 pounds per rupee.
<i>General Remarks.</i> —Rain in most districts of the Presidency excepting Sind. Fever and cattle-disease in parts of eight; small-pox in parts of six districts.		
Bengal—(June 2nd)		
Chittagong . . .	5.22	Weather seasonable. Prospects of crops fair. Caterpillars have appeared at Fatmehchari. Cattle-disease reported from Teknaf. Public health good. Prices steady.
Dacca	2.37	Low lands being cultivated for paddy. Crops, chillies, and <i>til</i> being gathered. Prospects of crops good. Public health generally good.
24-Pergunnahs (Calcutta).	Nil	Sugarcane doing well. Sowings of early rice and jute commenced. Sporadic cholera in thana Joynagore. Public health generally good.
Moorshedabad . .	1.04	Weather unsettled. Sowing of rice crops progressing rapidly; prospects good. Sporadic cholera still reported. Public health fair. Price of rice stationary.
Rangpore . . .	7.43	<i>Aus</i> and jute thriving well. Public health fair.
Bardwan . . .	3.61	Prospects of <i>aus</i> and <i>aman</i> rice good. Public health good.
Bhagalpur . . .	1.61	Cultivation of <i>bhadai</i> crops progressing; prospects good. General health good. Prices steady.
Purneah	6.30	Crops doing fairly. More rain wanted. Sowings being made wherever possible. Public health good.
Patna	0.48	<i>Cheena</i> and sugarcane doing well. Collection of cotton continues. Sowing of <i>bhadai</i> crops commenced in Barh subdivision. A few cases of cholera reported from Barh town, otherwise public health good.
Durbhunga . . .	0.38	Prospects of early paddy, <i>moong</i> , and <i>cherma</i> promising. Lands being ploughed for <i>bhadai</i> sowings. Prices stationary. Public health generally good.
Hazaribagh . . .	0.16	Weather unsettled and stormy. Sugarcane doing well, mango yielding well. General health good.
Cuttack	2.00	Weather hot and cloudy. Ploughing in progress. Rice sown in many places. Price of rice unchanged. Public health generally good.
Midnapore . . .	1.42	Weather seasonable. Land being prepared for cultivation. <i>Aus</i> rice above the ground in places. Public health good.
Khoolna	1.53	Weather hot. <i>Aus</i> paddy being sown. Public health good.
Limagepore . . .	Heavy rain throughout district; 9.10	Weather unseasonable. Cotton going on well. Cattle-disease prevalent. Theedest and cholera in Bishdhat.
Pubna (Serajgunge)	3.03	Crops very good. Public health improved.
Gya	1.53	Sugarcane benefited by rain. Ploughing going on. Prices moderate. Public health good.
Chumpan	1.37	Standing crops much benefited by rain. Land being prepared for <i>bhadai</i> . Prices stationary. Some cases of fever and small-pox.
<i>General Remarks.</i> —Good general rain during the week. Cultivation everywhere well forward and rice and jute sowings progressing rapidly in many places. <i>Aus</i> rice and jute are already thriving well. Sugarcane, indigo and <i>cheena</i> also much benefited by rain and their prospects are favourable. Price of rice stationary. General health good.		

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
N.-W. Provinces and Oudh—(June 2nd)		
Benares (May 31st)	<i>Nil</i>	Supplies ample. Prices steady. Health generally good.
Gorakhpore (" ")	Slight rain at Sadr	Tilling of land for <i>kharif</i> sowings in progress. Prices stationary. Health fair.
Fyzabad (June 1st)	Slight rain	Weather cloudy, with east winds. Sugarcane and indigo promise well. Prices steady. Supplies ample. Health of men and cattle good.
Lucknow (May 31st)	<i>Nil</i>	Weather very hot. East winds. Melon crops have suffered seriously from rain. Markets well supplied. Prices stationary. Health of people good. Condition of cattle fair.
Rae Bareilly (" ")	<i>Nil</i>	Weather cloudy and steady. Easterly wind. Supplies ample. Prices steady. Public health good.
Partabgarh (June 1st)	A sprinkling of rain	Wind easterly. Indigo being sown. Irrigation discontinued and <i>sarson</i> being cut. Prices stationary. Measles have almost disappeared, but cholera still lingers in some parts of tahsils Kunda and Patu.
Allahabad (" ")	<i>Nil</i>	Weather close and cloudy. Supplies abundant. Prices show a tendency to rise. General health good.
Cawnpore (" ")	Slight rain in Cawnpore.	Weather cloudy at times and close. <i>Rabi</i> harvested. Prices steady. Condition of people good; foot and mouth disease in Bilkaur.
Banda (May 31st)	<i>Nil</i>	Weather not seasonable; east winds. Prices stationary. Public health good; cattle-disease in four villages.
Farakhabad (June 1st)	On 29th May average 30 in district.	Prices steady. Health fair.
Sitapur (" ")	<i>Nil</i>	Owing to the unsettled weather there has been some difficulty in moving the grains from the Khaliyans. The rain has done good to the sugarcane. The weather now seems mending.
Bareilly (" ")	Rain in all tahsils	The rain has injured melons, but benefited sugarcane and indigo. Prices almost stationary with tendency to fall. Public health normal.
Ballia (" ")	<i>Nil</i>	Weather cloudy at times with strong easterly winds. Supplies ample. Public health good.
Kumaon (" ")	Smart showers	<i>Rabi</i> harvested; <i>kharif</i> germinating well. Prices falling. Few deaths from <i>muhamari</i> reported in Pargana Gangoli; cattle-disease decreasing.
Agra (May 31st)	In four parganas 20 to 40.	Weather cloudy. Prices steady. Health good.
Jhansi (" ")	40	Weather continues cloudy. Prices show a fall in wheat and gram. Slight small-pox and cattle-disease.
Meerut (June 1st)	Rain all over the district, heaviest in Meerut itself on 28th	Strong easterly wind followed by storms. <i>Kharif</i> ploughing commenced everywhere. Supplies ample. Prices steady. Health good.
General Remarks —Weather unsettled. Indigo and sugarcane have benefited from the recent rain. Prospects good everywhere. Markets well supplied and prices steady. Public health fair.		
Panjab—(June 2nd)		
Hissar (June 2nd)	40	Health good. Prices nearly stationary. Prospects of current harvest good.
Delhi	24	Health good. Prices stationary.
Umballa	40	Health good. Prices rising. Prospects of current harvest good.
Jullundur	<i>Nil</i>	Health good. Prices stationary. Prospects of current harvest good.
Ferozepore	<i>Nil</i>	Health good. Prices rising.
Amritsar	30	Health good. Prices stationary.
Sialkot	<i>Nil</i>	Health good. Prices stationary.
Lahore	<i>Nil</i>	Health good. Prices stationary. Prospects of current harvest below average.
Mooltan	Slight rain	Health good. Prices stationary.
Rawalpindi	40	Health good. Prices stationary. Prospects of current harvest average.
Shahpur	<i>Nil</i>	Health good. Prices stationary.
Dera Ismail Khan	09	Health good. Prices stationary.
Peshawar	<i>Nil</i>	Health good. Prices falling.
General Remarks —Rain has fallen in the Hissar, Delhi, Umballa, Amritsar, Mooltan, Rawalpindi, and Dera Ismail Khan districts. General health good, but fever is prevalent in Peshawar and in the Rawalpindi and Kashaln tahsils; small-pox in Dera Ismail Khan. Prices rising in the Umballa and Ferozepore districts and falling in the Peshawar district, elsewhere stationary. Harvest in progress.		
Central Provinces—(June 2nd)		
Nagpur	05	Weather cloudy, with slight rain. Land being prepared for sowing. Small-pox and cattle-disease in parts. Prices steady.
Jubbulpore	76	<i>Kharif</i> ploughing commenced. Health fair. Prices steady.
Saugor (June 1st)	43	Prices risen in two tahsils. Fever, small-pox, and cattle-disease continue.

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
Central Provinces - contd.		
Seoni	63	Weather cloudy. <i>Kharif</i> ploughings progressing. Health good. Prices steady.
Hoshangabad	Slight rain	Weather cloudy and stormy. <i>Kharif</i> ploughings continue. Small-pox and cattle-disease prevalent. Prices steady.
Bhardwa	19	Weather cloudy and close. <i>Kharif</i> ploughings in progress. Health fair. Prices steady.
Raipur	Occasional showers	Weather cloudy. Ploughings continue. Cholera and cattle-disease prevalent.
Sambalpur (May 20th)	72	Weather cloudy and stormy. Land being prepared for sowing. Cholera in places. Prices steady.
<i>General Remarks.</i> —Weather cloudy, with slight showers. Land is being prepared for <i>kharif</i> sowings. Fever, small-pox, and cattle-disease in places; cholera continues in Raipur. Prices steady.		
British Burma— (June 2nd)		
Akyab	4.79	Total rainfall 6.07. Public health good; cattle healthy.
Bassien	2.0	Total rainfall 7.51. Public health good; cattle-disease in one township.
Rangoon	1.93	Total rainfall 10.15. Public health good; cattle healthy.
Amherst (Moulmein)	5.40	Total rainfall 19.10. Public health good; cattle healthy.
Pegu	2.53	Total rainfall 7.31. Public health good; cattle healthy.
Henzada	2.80	Total rainfall 5.00. Slight cholera in three townships; cattle healthy.
Prome	1.31	Total rainfall 1.77. Public health good; cattle healthy.
Fongchon	3.15	Total rainfall 11.15. Public health good; cattle healthy.
Thayetmavo	1.45	Total rainfall 3.90. Public health good; cattle healthy.
<i>General Remarks.</i> —Cholera in parts of Thura-waddy and Henzada districts, elsewhere public health good. Cattle-disease in three districts, elsewhere cattle healthy.		
Assam—(June 2nd)		
Gauhati	4.20 during week ending 1st instant	Weather hot. Cholera diminishing in districts, but still prevalent in Sadi station. Cattle-disease reported from some mizmahs. Ploughing of sugarcane finished.
Sylhet	4.00	State and prospects same as last week. Cholera still reported.
Cachar	3.33	Weather warm. Cultivation for <i>am</i> and <i>asa</i> crops continues. Common rice 15 seers 7½ chittacks per rupee. Six deaths from cholera from Sadi, two from Rangora reported; general health good.
Dibrugarh	1.20	Weather seasonable. Prospects of crops good. Cholera still prevalent in North Lakhimpur, otherwise public health good.
Mysore and Coorg— (June 2nd)		
Bengalore	General rain throughout the State; at Civil and Military station 11.1; Mysore, 6.04; Kolar, 7.0.	Crops generally in good condition; agricultural operations in progress; prospects of season favourable. Public health generally good. No material change in prices.
Mysore		
Metcalf	7.0	Good rain for preliminary rice cultivation. No change in prices of food-grains. Prospects of season and public health good.
Bihar and Hyderabad		
Ahmednagar (June 2nd)	3.03	Weather cooler. <i>Kharif</i> preparation continues. Wheat 22 and <i>juari</i> 20 seers per rupee.
Akola	Nil	Weather hot and sometimes cloudy. Ploughing operations continue.
Hyderabad	7.07	Total rainfall since 1st January 4.00. Reaping of hot weather crops continues in some places. General health fair. Prices—wheat 15½, coarse rice 11½, white <i>juar</i> 21, yellow <i>juar</i> 23½ and <i>tur</i> 15 seers per current sicca rupee.
Central India States— (June 2nd)		
Indore	A mile distant from city 30 additional reported; 306	Weather like that in monsoon in city.
Gwalior	Nil	Weather cloudy and hot.
Satna	20	Health good. Weather very hot.
Neemuch	57	Weather close and cloudy. Prices slightly rising. Health good.
Goona	20	Health and prospects good.
Agar	17.4	Health and prospects good.
Nowgong	Nil	Weather hot and cloudy. Health good. Prices falling.
Bhopawal (Munpur)	Nil	Weather indicates approach of the monsoon. Health good. Prices stationary.

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
Rajputana—(June 2nd)		
Abu (June 2nd)	21	Weather much cooler, cloudy and monsoonish.
Sirohi (May 30th)	Nil	Tanks dry; wells low. Health good. Weather very hot; clouds and high wind towards evenings.
Kherwara (" ")	24	Tanks and wells low. Health good. Prices steady. Weather cooler, with wind and light clouds.
Pertabgarh (" 29th)	08	Some water in wells. Health good. Prices steady. Showers with storm on 26th; weather partially cloudy.
Meywar (" ")	Nil	Tanks and wells decreasing. Health very good. Prices rising. Weather very hot and cloudy.
Harot (" ")	Deoli, 31; Tonk, 72	Weather cloudy and warm. Small-pox and measles abating. Prices risen.
Jhalliwar (" 28th)	02	Health good. Heat great ending with storm.
Kotah (" ")	Nil	Health good. Prices rising. Heat great.
Ajmere (June 1st)	80	Weather hot and cloudy. Tanks and wells diminishing. Slight fever and small-pox in district.
Jeypore (" ")	18	Prices steady. Health fair.
Ulwur (" ")	Average of eight tahsils, 40; heavy hailstorm in Patgana Mandawar.	Health good. Prices steady.
Bikanir (May 29th)	Some rain in districts.	Fever, measles, and small-pox in Bikanir and some districts. Prices rising. Weather very hot and windy.
Nepal—(May 27th)		
Katmandu (May 28th)	153	

C. J. LYALL,

Officiating Secretary to the Government of India.

GOVERNMENT OF INDIA.
PUBLIC WORKS DEPARTMENT.
RAILWAY TRAFFIC.

No. V of 1886-87.

APPROXIMATE STATEMENT OF GROSS RECEIPTS AND EXPENSES OF INDIAN RAILWAYS.

Latest Return received.	Railways.	Total length open.	RECEIPTS FOR WEEK ENDING 9TH MAY 1885.		Total length open.	RECEIPTS FOR WEEK ENDING 8TH MAY 1886.		TOTAL RECEIPTS FROM 1ST APRIL TO 9TH MAY 1885.		TOTAL RECEIPTS FROM 1ST APRIL TO 8TH MAY 1886.		Total Increase in 1886-87.	Total Decrease in 1886-87.
			Total.	Per mile open.		Total.	Per mile open.	Total.	Per mile open per week.	Total.	Per mile open per week.		
	<i>Guaranteed.</i>		<i>Rs.</i>	<i>Rs.</i>		<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>
8th May 1886	Oudh and Rohilkhand	668	1,47,144	242	680	1,00,052	240	7,64,711	226	8,82,684	239	1,17,973	...
15th do. "	Madras	801	1,48,183	172	801	1,48,330	172	7,87,707	163	7,82,000	167	...	4,831
8th do. "	South Indian	654	80,789	133	654	95,414	140	5,00,281	137	5,34,503	151	34,222	...
15th do. "	Great Indian Peninsula	1,504	10,89,087	724	1,504	11,50,319	705	56,79,505	678	57,73,129	709	93,504	...
8th do. "	Bombay, Baroda and Central India	401	3,37,501	732	401	3,38,000	733	17,67,048	688	18,68,327	746	1,01,279	...
	TOTAL	4,088	18,08,674	442	4,088	18,09,024	436	94,09,402	417	98,41,609	440	3,42,207	...
	<i>State.</i>												
15th May 1886	East Indian	1,509	11,15,161	739	1,513	10,12,765	688	58,22,026	602	55,16,371	671	...	3,05,655
8th May "	Eastern Bengal	233	70,045	330	234	82,124	351	5,01,388	380	4,48,863	354	...	52,525
15th do. "	North "	7	1,135	4	7	1,406	55	8,172	54	6,644	65	1,472	...
8th do. "	North in Bengal	41	36,307	140	42	45,000	184	2,11,907	183	2,40,370	178	28,003	...
15th do. "	Kaunia-Danalia	57	1,113	84	57	2,117	57	17,225	83	12,527	62	...	4,698
15th do. "	Tirhoot	220	27,775	123	240	31,047	120	1,00,000	132	1,73,820	130	6,809	...
15th do. "	Patna-Gya	57	6,094	171	7	1,980	227	60,818	101	73,332	236	12,514	...
15th do. "	Cawnpore-Achmeta	241	14,007	90	253	25,520	101	91,440	66	1,22,936	80	31,490	...
15th do. "	Dildara-Car-Ghazipur	12	1,201	150	12	1,556	130	7,320	100	7,142	110	...	178
15th do. "	Rajputana-Malwa	1,411	3,07,810	218	1,411	3,70,000	262	17,77,377	226	20,01,000	261	2,23,623	...
15th do. "	Wardha Coal	45	18,203	400	45	15,440	343	80,903	323	94,577	387	1,3,584	...
15th do. "	Nagpur and Chhattisgarh	149	48,089	322	149	48,623	326	2,09,055	300	2,89,151	357	...	9,904
8th do. "	British Burma	234	46,311	152	37	4,606	130	3,15,300	273	2,80,013	101	...	29,356
15th do. "	Sindh	75	6,154	84	75	7,501	101	42,298	102	43,249	100	951	...
8th do. "	North-Western	1,803	8,30,711	401	1,803	4,52,548	251	41,09,333	418	27,24,507	279	...	14,74,826
8th do. "	Amritsar-Pathankot	60	1,601	61	60	5,487	83	37,821	103	34,030	97	...	3,182
15th do. "	Bareilly-Pilibhit	39	1,700	35	39	1,842	51	6,737	43	10,800	50	2,120	...
15th do. "	Dacca	10	1,840	134	80	3,058	43	11,071	200	20,872	57	15,201	...
8th do. "	Jorhat	23	531	23	30	431	14	2,252	18	3,077	19	825	...
15th do. "	Cawnpore-Kalpi				42	2,690	64	...	...	14,620	64	14,620	...
	TOTAL	4,062	11,40,305	200	4,185	11,53,638	222	78,40,142	284	60,17,420	235	...	12,22,722
GRAND TOTAL (GUARANTEED AND STATE)			10,559	43,64,140	413	10,500	40,95,427	377	2,31,61,570	303	2,19,75,400	372	11,86,170
GROSS ESTIMATED EXPENSES			...	...	...	...	...	1,00,54,322	181	1,10,07,454	180	...	...
NET RECEIPTS			...	...	...	...	...	1,25,07,248	212	1,07,07,946	183	...	17,30,302
	<i>Assisted Companies.</i>												
8th May 1886	Bengal-Central	126	9,792	78	126	11,547	92	59,421	85	55,755	82	...	3,666
15th do. "	Rohilkhand and Kumaon	67	4,500	67	67	6,709	101	20,688	80	41,707	115	12,019	...
1st do. "	Assam	(a)	(a)	(a)	(a)	(a)	(a)	(b) 20,377	57	(c) 30,944	90	10,567	...
8th do. "	Southern Mahratta	214	12,277	57	316	32,490	103	65,101	55	1,71,292	100	1,06,191	...
8th do. "	Bengal and North-Western	303	30,450	101	303	45,610	151	1,53,933	92	2,35,391	143	79,758	...
15th do. "	Tarakessur	20	5,001	227	22	5,085	231	30,075	205	30,568	302	433	...
	TOTAL	742	62,020	85	831	1,01,537	122	3,06,295	81	5,71,597	116	2,05,302	...
	<i>Native States.</i>												
15th May 1886	Bhavnagar-Gondal	193	28,719	149	193	30,758	159	1,46,108	136	1,47,657	141	1,549	...
15th do. "	Jodhpore	64	3,280	51	64	4,430	69	10,704	47	23,575	68	6,871	...
1st do. "	Nizam's	(a)	(a)	(a)	(a)	(a)	(a)	(b) 1,08,000	160	(c) 1,00,303	100	...	8,273
8th do. "	Mysore	149	7,426	53	149	8,369	60	41,935	54	42,807	56	872	...
8th do. "	Rajpura-Patiala	16	771	48	16	1,350	83	5,904	67	7,213	83	1,309	...
	TOTAL	413	40,196	97	413	44,887	100	3,19,317	107	3,21,645	93	2,328	...

N.B.—As regards the figures in column "Total Receipts from 1st April to date," audited figures have been availed of as far as possible.

(a) Return not received.

(b) Total receipts from 1st April to 2nd May 1885.

(c) Total receipts from 1st April to 1st May 1886.

SIMLA,

The 2nd June, 1886.

FRED. FIREBRACE, Major, R.E.,
Under Secretary.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 5, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART II.

Notifications by High Court, Comptroller General, &c.

GAZETTE OF INDIA.

NOTICE.

The 15th March 1886.

From the 10th April next, till further notice, Parts I, IV, and V of the *Gazette of India*, and the Weather and Crop Reports, will be published at Simla. After the 3rd April, all Notifications and other matter intended for publication in those Parts, should be addressed to the Officiating Publisher, at Simla.

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Parts IV and V of the *Gazette of India*, containing the Acts and Bills of the Legislative Council, may be subscribed for separately from the other Parts of the *Gazette*. The annual subscription for the two Parts is **Rs 5** per annum, payable in advance. When sent by post, **Rs 2-8** per annum additional will be charged for postage.

By an order of Government, all subscriptions must be paid *in advance*.

Applications for the supply of the *Gazette* on the *public service* should be addressed to the Home Department.

Complaints regarding non-receipt of any number of the *Gazette* should be forwarded within a week after the day on which it is due.

Attention is invited to the Circular Memo. of the Government of India, Home Department, of February 1870, directing that all Notifications or other matter intended for insertion in the *Gazette of India* should be delivered at the Publisher's Office not later than 2 P.M. on Friday afternoon, and that matter sent after that hour must be certified to be extremely urgent in order to ensure its appearance in the next day's *Gazette*.

Matter intended for publication in the Supplement should reach the Press not later than Thursday.

E. J. DEAN,

Publisher, Gazette of India.

CALCUTTA UNIVERSITY.

NOTICE.

The Tagore Professor of Law will lecture on the Law relating to the Transfer of Immoveable Property *inter vivos* at 9 A.M. on Saturday, the 19th June 1886, and on succeeding Saturdays, at the Presidency College at the same hour.

W. GRIFFITHS,

Registrar.

SENATE HOUSE,

The 31st May 1886.

No. 508.—Account of Revenue and Expenditure of the Government of India for the first

N.B.—Amounts are converted into

	REVENUE.	Estimates, 1885-86.	April 1884 to January 1885.	April 1885 to January 1886.	COMPARISON OF TWO YEARS.	
					Increase.	Decrease.
		£	£	£	£	£
I	Land Revenue*	22,864,600	15,785,080	16,122,418	337,338	...
II	Opium	9,025,500	7,271,644	7,354,121	82,477	...
III	Salt	6,400,000	5,309,880	5,162,776	...	147,104
IV	Stamps	3,633,400	2,968,425	3,002,566	34,141	...
V	Excise	4,070,000	3,312,962	3,410,096	97,134	...
VI	Provincial Rates	2,856,800	2,212,035	2,316,617	104,582	...
VII	Customs	1,175,000	717,501	829,131	111,630	...
VIII	Assessed Taxes	514,900	481,519	483,568	2,049	...
IX	Forest	1,060,100	602,747	633,517	30,770	...
X	Registration	281,800	235,975	255,527	19,552	...
XI	Tributes from Native States	691,300	472,404	454,898	...	17,506
XII	Post Office	1,101,700	871,260	926,220	54,960	...
XIII	Telegraph	540,100	389,307	474,650	85,343	...
XIV	Mint	125,000	98,890	185,556	86,666	...
XV	Law and Justice	595,300	422,858	445,806	22,948	...
XVI	Police	311,600	252,072	253,295	1,223	...
XVII	Marine	176,400	113,404	158,098	44,694	...
XVIII	Education	201,800	153,936	154,461	525	...
XIX	Medical	52,600	42,160	35,594	...	3,566
XX	Scientific and other Minor Departments.	86,100	62,303	50,149	...	6,154
XXI	Interest	650,400	491,338	478,244	...	13,094
XXII	Receipts in aid of Superannuation, &c.	257,700	118,838	161,171	42,333	...
XXIII	Stationery and Printing	54,100	33,664	40,238	6,574	...
XXIV	Miscellaneous	267,700	204,230	230,617	26,407	...
	<i>Productive Public Works.</i>	57,002,900	42,624,432	43,628,354	1,003,922	...
XXV	State Railways (Gross Earnings)	3,841,700	2,684,317	3,380,689	696,372	...
	East Indian Railway (Gross Earnings)	4,550,000	3,480,850	3,851,859	371,009	...
	Eastern Bengal Railway (Gross Earnings)	550,000	338,445	372,264	33,819	...
XXVI	Guaranteed Railways (Net Traffic Receipts).	3,360,000	3,454,943	3,643,994	189,051	...
XXVII	Irrigation and Navigation (Direct Receipts)	874,700	844,010	621,392	...	222,718
	<i>Unproductive Public Works.</i>					
XXIX	State Railways	148,400	199,770	172,076	...	27,694
XXX	Subsidized Railways	...	...	...	...	...
	Southern Mahratta Railway	100,000	24,561	77,576	53,015	...
XXXI	Irrigation and Navigation	135,400	108,900	111,859	2,959	...
XXXII	Military Works	40,800	31,267	30,063	...	1,204
XXXIII	Civil Buildings, Roads, and Services	474,600	383,413	375,959	...	7,454
XXXIV	Army	814,000	577,075	621,993	44,918	...
XXXV	Military Preparations in N.-W. Frontier.	...	...	27,010	27,010	...
"	Military Preparations in Burmah	...	...	165	165	...
		71,892,500	54,751,983	56,915,153	2,163,170	...
	England, including Army, Public Works, &c.	197,900	226,893	236,822	9,929	...
	GRAND TOTAL.	72,090,400	54,978,876	57,151,975	2,173,099	...

* Includes Land Revenue due to Irrigation, which cannot be separated in the Monthly Accounts.

ten months of the year 1885-86, as compared with the corresponding period of 1884-85.

sterling at £10 to the pound sterling.

	EXPENDITURE.	Estimates, 1885-86.	April 1884 to January 1885.	April 1885 to January 1886.	COMPARISON OF TWO YEARS.	
					Increase.	Decrease.
		£	£	£	£	£
1	Interest on Ordinary Debt*	3,800,000	3,052,703	3,058,166	5,463	...
2	Do. on other Obligations	411,000	226,230	127,454	...	98,776
3	Refunds and Drawbacks	224,400	156,285	184,132	27,847	...
4	Assignments and Compensations	1,248,500	640,936	635,056	...	5,880
5	Land Revenue	3,443,800	2,519,905	2,582,878	62,883	...
6	Opium (including Cost of Production)	2,473,700	2,806,085	2,929,909	123,824	...
7	Salt (do. do.)	492,300	369,781	363,112	...	6,669
8	Stamps	84,800	71,851	69,534	...	2,317
9	Excise	123,500	82,309	98,209	15,900	...
10	Provincial Rates	113,500	95,713	39,561	...	56,152
11	Customs	133,200	114,482	107,920	...	6,562
12	Assessed Taxes	13,400	11,112	10,442	...	670
13	Forests	725,300	474,253	492,203	17,950	...
14	Registration	181,100	146,400	152,553	6,153	...
15	Post Office	1,161,300	920,933	952,296	31,363	...
16	Telegraph	607,900	422,377	408,885	...	13,492
17	Mint	77,500	62,421	75,772	13,351	...
18	General Administration	1,335,700	1,092,357	1,133,148	40,791	...
19	Law and Justice	3,437,500	2,713,937	2,740,178	26,241	...
20	Police	2,855,700	2,277,369	2,304,094	27,325	...
21	Marine (including River Navigation)	365,800	272,690	285,459	12,769	...
22	Education	1,201,900	964,420	966,473	2,053	...
23	Ecclesiastical	109,700	136,776	135,293	...	1,483
24	Medical	760,400	591,181	594,105	2,924	...
25	Political	629,800	504,207	971,406	467,199	...
26	Scientific and other Minor Departments	477,900	432,359	438,285	5,926	...
27	Territorial and Political Pensions	654,900	534,337	523,716	...	10,621
28	Civil Furlough and Absentee Allowances	5,200	10,717	4,935	...	6,682
29	Superannuation Allowances and Pensions	763,400	670,936	670,563	...	373
30	Stationery and Printing	374,000	302,371	321,507	19,136	...
31	Miscellaneous	263,700	212,414	223,432	11,018	...
32	Famine Relief	33,000	3,517	34,306	30,789	...
33	Protective Works—Railways	500,000	731,788	...	...	731,788
34	Do. do. Irrigation	287,300	195,469	137,121	...	58,348
35	Reduction of Debt	679,700	...	...	...	...
49	Exchange on transactions with London	3,573,600	2,301,570	2,134,836	...	166,734
		33,774,400	26,122,281	25,906,639	...	215,642
	<i>Productive Public Works.</i>					
36	State Railways (Working Expenses)	2,270,500	1,607,484	1,927,518	320,034	...
	East Indian Railway (Working Expenses)	1,826,500	1,540,634	1,549,039	8,405	...
	Eastern Bengal Railway (ditto)	232,500	128,533	239,794	111,261	...
37	Guaranteed Railways (Surplus Profits, Land and Supervision)	516,000	490,414	480,571	...	9,843
38	Irrigation and Navigation (Working Expenses)	593,100	444,680	443,489	...	1,101
39	Charges in respect of Capital—Guaranteed Railways Interest	4,400	12,390	27,086	14,696	...
	<i>Unproductive Public Works.</i>					
40	State Railways (Capital Account)	308,000	117,017	160,942	52,925	...
41	Do. (Working & Maintenance)	119,900	141,253	98,044	...	43,209
42	Subsidized Railways	30,800	32,995	32,342	...	653
	Southern Mahratta Railway	80,300	141,808	64,938	...	76,870
43	Frontier Railways	100,000	251,223	...	...	251,223
44	Irrigation and Navigation	706,100	460,994	488,994	28,000	...
45	Military Works	1,088,300	674,367	642,556	...	31,811
46	Civil Buildings, Roads, and Services	4,040,600	2,751,973	2,500,586	...	251,387
47	Army	12,161,500	9,851,450	10,319,933	467,583	...
48	Military Preparations in N.-W. Frontier	...	...	1,944,594	1,944,594	...
	Do. do. in Burmah	...	...	37,635	37,635	...
	England, including Army, Public Works, Guaranteed Interest, &c.	57,951,900	44,769,496	46,874,800	2,103,304	...
		14,354,600	13,018,148	12,516,016	...	502,132
		72,306,500	57,787,644	59,388,816	1,601,172	...
	<i>Productive Public Works—Capital Expenditure.</i>					
	In India—					
50	State Railways	1,900,600	942,360	1,724,489	782,129	...
	East Indian Railway	340,000	269,639	172,152	...	67,487
	Eastern Bengal Railway	132,100	40,462	86,500	46,137	...
51	Irrigation and Navigation	813,700	460,983	422,174	...	38,809
	In England—					
	State Railways	862,100	647,591	(b) 1,400,908	762,317	...
	East Indian Railway	...	312,677	387,021	74,344	...
	Eastern Bengal Railway	350,900	(a) 972,680	495,912	...	470,768
	Irrigation and Navigation	6,000	3,756	6,145	2,389	...
		4,405,400	3,650,148	4,704,400	1,054,252	...
	GRAND TOTAL	76,711,900	61,437,792	64,093,210	2,055,424	...

* Includes Interest on Debt incurred for Productive Public Works, which cannot be separated in the Monthly Accounts.

C. R. C. KIERNANDER,

E. F. T. ATKINSON,

By Order of the Directors,
W. D. CRUICKSHANK,
Offg. Secretary & Treasurer.

Statement of Silver Balance in the Calcutta Mint for the week ending 2nd June 1886.

	₹	₹
Value of silver held in the Mint on account of the Currency Department on the evening of the 26th May 1886	2,54,708	
Value of Government silver in the Mint on the same date	8,82,290	
		11,36,998
ADD—		
Silver received by the Mint during the week on account of the Currency Department	1,413	
Ditto ditto Government	55,99,054	
		55,91,467
DEDUCT—		
New coin paid to Reserve Treasury during the week	2,94,000	
Petty items issued for miscellaneous purposes	1,112	
		2,95,112
Balance on the evening of the 2nd June 1886	...	64,33,353
The Balance comprises—		
Silver held on account of the Currency Department	1,99,089	
Ditto ditto Government	62,34,264	
There is in addition awaiting assay—		64,33,353
Bullion belonging to Private Individuals	39,131	
Ditto ditto Government	...	
		39,131

A. W. BAIRD, Major, R.E.,
Offg. Master of the Mint.

CALCUTTA MINT,
The 3rd June 1886.

CURRENCY NOTES.

The following Currency Notes of the Government of India are stated to have been lost, and payment of their value has been claimed by the persons whose names are placed against the numbers. Any other person having these Notes in his possession, or claiming a right to them, is warned to communicate at once with the undersigned:—

Lahore Circle.

Regt. No.	No of Note	Value	Name of Claimant.
9	F 26—31326	100	Lajpuri Rai, Pleader, Hissar

LAHORE,
The 31st May 1886.

W. H. EGERTON.

for Deputy Commissioner of Currency

TREASURE TROVE.

NOTICE

In accordance with the provisions of Section 5 of Act VI of 1878, notice is hereby given to all whom it may concern, that on the 24th May 1885, certain treasure consisting of gold and silver ornaments, &c., valued at ₹186-8-10, was found in Akalkhop, Taluka Tasgaon, in the Satara District.

All persons claiming the said treasure, or any part thereof, are hereby required to appear personally or by agent before the Mamledar of Tasgaon, on 10th September 1886, at Akalkhop, when the Mamledar will proceed to hold an enquiry in accordance with the provisions of the Act.

G. F. M. GRANT,
Collector of Satara.

CAMP MAHABLESHWAR,
The 26th May 1886.

FOR SALE AT THE PATNA OPIUM FACTORY SAW MILLS, GOOLZARBAUGH.

Two Armstrong's patent dovetailing machines adapted for cabinet makers and builders and packing-case makers.

They are of one inch pitch capable of dovetailing planking 15 inches wide and 1½ inches thick and will cut the dovetails at the rate of 20 feet of planking per minute.

Each machine is arranged for cutting ordinary and blind dovetails and dovetails on the angle and is easy to work. The discs being set to the proper angle, the board is fastened on the travelling table by a clamp which on being set in motion travels along the front face of the saws.

The machines are similar in construction to the one exhibited by Messrs. Robinson and Sons of Ratchdale, England, at the Calcutta Exhibition of 1883-84.

Each machine cost £106 12s. 8d.

Landing in Calcutta plus } ₹43-13-0
for carriage to Patna. }

These machines are perfectly new and are sold merely because they are not of the required specifications.

Offers are invited.

Apply to DR. H. WHITWELL,
Principal Assistant to Opium
Agent, Behar, Patna.

POST OFFICE.

NOTIFICATIONS.

Simla, the 27th May 1886.

No. 3063.—Mr. C. E. Charde, Post Master, Meerut, is appointed to officiate as Post Master, Agra.

Mr. C. S. Figgs, Post Master, Mirzapur, is appointed to officiate as Post Master, Meerut.

The 28th May 1886.

No. 3157.—Mr. E. Hutton, Presidency Post Master, Calcutta is granted two months' privilege leave, with effect from the 17th May, after noon.

G. J. HYNES,
for Dir. Genl. of the Post Office of India.

Unclaimed letters held in the Calcutta General Post Office on 3rd June 1886.

Bennett, A.	Gregory, G.	Power, J. O.
Calvin, H.	King, F. J.	Schulze, W.
DeBoruck, C. W.	Leeman, J.	Scott, H. G.
Gasper, E. Cecil	Mackay, A. J.	Wilkinson, Messrs. & Co.

Letters marked "Care of Post Office."

Angeli, Sig. D.	Grant, Mrs. H.	Perry, C. J.
Barnes, G. J.	Greenhill, I. G.	Peterson, Dr. Geo.
Barnett, Mr. James.	Grubbs, Norris.	Poley, J.
Basham, M. E.	Guerner, H. J.	Power, J. O.
Bates, J. N.	Gulley, Mr.	Preston, R. C. Campbell
Bigex, Mon. E.	Hoare, I.	Randall.
Bowers, S.	Hutton, Lt. Col.	Rice, W. G. I.
B. R.	Imman, Capt. C.	Rishworth, B. J.
Bush, C.	Imman, James	R. M. E. Mrs.
Capel, Lt. Col.	J. M. Mc	Saltan, Mrs. M.
Caws, Capt. A. E.	Kelly, Miss G.	Schmid, Otto
Churleton, R. M.	R. I. M.	Schumann, C. H.
Cohen, Mr.	Kirkcaldie, J.	Sharp, Capt. A.
Dimmock, Pasll.	Leo, Jay	Shaw, H. J.
D'Mello, Jose	Lemaire, A.	Smallwood Geo.
Downing, D. G. A.	Leslie, Mrs. C. H.	Smart, Mrs. R. B.
D. Rozario, Miss J.	M. G.	Smith, J. M.
Drury, Surgeon F. J.	Mawqueen, T.	Soe, Rev. A. B.
Dukes, Mrs.	Manning, J. J.	Stonians, Walter.
Dundas, Mrs.	McDonald, Miss.	Stone, Mrs. T.
Easton, Percy H.	McLaughlin, John.	Swigler, Mr. C.
Entwistle, R.	Miller, Capt. John C.	Sykes, John J. C.
Fox, R. C. W.	Minch, Mr.	Todd, W. P.
Fraser, H. B.	Miraglia, Giuseppe	Touzel, Rev. C. J. C.
Gayer, A. H.	Morris, Paul.	Tracey, A.
Gilbert, Mrs. M.	Norville, Mrs. L.	Walker, P. C.
Godfrey, J. B.	Olsen, J.	Ward, Lieut. B. R.
Goodall, Miss.	Page, J. B.	Wessendorf, Henri.
Gow, J. F.	Percy, A.	Wilson, Mrs. Mark.

Registered Letters.

Altridge, G.
Greenblatt, S.
Grogan, H. C.

Guerrier, H. J.
Jones, W.

Power, J. O.
Ross, A.

Unclaimed Letters held in the Barrackpore Post
Office on the 31st May 1886.

Arrakiel, M.
Crossman, J.
Deburgh, W. T.
Fowell, Capt. W.
Hart, E. H.

Lidstone, C. A.
Marsden, E. J.
McKee, S. G.
Mullik, N. C.
Owen, M. S.

Patch, J.
Roberts, H.
Stewart, Mrs.
Thomas, Major C. F.

G. BARTON GROVES,
Offg. Presidency Postmaster, Calcutta.

The 5th June 1886.
SEA AND FOREIGN MAILS.

Mails for	Date of closing at Calcutta	Route by which despatched.
	1886.	
Egypt, Europe, America, Cape Colonies through United Kingdom	5th June	Per P. & O. Str. from Bombay.
Ditto ditto ditto	12th "	Ditto.
Ditto Book Post and Pattern Packets.	11th "	Ditto.
Zanzibar, Mozambique, and East Coast of Africa generally, Delagoa Bay, Natal and Cape Colonies by B. I. Steamers from Aden to Zanzibar and thence by the Castle Mail Packets.	12th "	Ditto.
Ceylon, Straits Settlements, Netherlands India, Laluan, Bangkok (Siam), Philippine Islands, China and Japan	8th "	Ditto.
Australia, New Zealand and Tasmania	8th "	Ditto.
Madras and Colombo	9th "	Per P. & O. Str.
Madras, Pondicherry, Ceylon, Batavia, Singapore and China	14th "	Per French Str.
Straits and Hong-Kong	7th "	Per Str. Hong-Kong.
Rangoon and Moupin	6th "	Per Str. para.
Akyal, Kyouk Phoo, and Rangoon	9th "	Per Str. para.
Port Blair and Camorta	6th "	Per Str. para.

N.B.—The letter box will close at 7 P.M. precisely, after which hour Foreign letters, fully prepaid and bearing an extra postage stamp of four annas on each cover, will be received up to 7.30 P.M.

G. BARTON GROVES,
Offg. Presidency Postmaster.

GOVERNMENT CINCHONA
FEBRIFUGE.

This preparation is an efficient substitute for quinine, and can be purchased by Government officers for public and charitable purposes, and by any one taking *twenty pounds* at a time, from the Superintendent, Botanic Garden, Calcutta, *for cash only*, at the following rates—per four-ounce tin, *Rs. 4-8*, per eight-ounce tin, *Rs. 8-8*, per pound tin, *Rs. 16-8*. The general public can be supplied by the Superintendent, Botanic Garden, *for cash only*, at the under-noted rates—per four-ounce tin, *Rs. 5-8*; per eight-ounce tin, *Rs. 10-8*; per pound tin, *Rs. 20*. This medicine is also sold by the principal European and Native druggists in Calcutta. Postage, eight annas per four and eight ounce tins, and twelve annas per pound tin, in addition to the foregoing rates.

گورنمنٹ سنکونا فبري فيوج

یہ دوا کوئیٹائین کا خوب قائم مقام ہے اور کلکتہ کے ہوائی گارڈن یعنی کمپنی باغ کے سپرنٹنڈنٹ صاحب سے ہر ایک ملازم سرکاری واسطے سرکاری کام اور خیرات کے اور سوائے ان کے جو کوئی ایک مشیت بیس پونڈ خرید لینے سے بقیہ نقد حسب نرخ ذیل خرید کر سکتے ہیں یعنی نرخ چار اونس کے تین کا چار روپیہ آٹھ آنے ; آٹھ اونس کے تین کا آٹھ روپیہ آٹھ آنے ; ایک پونڈ کے تین کا سولہ روپیہ آٹھ آنے

اور ہوائی گارڈن کے ہوائی گارڈن یعنی کمپنی باغ کے سپرنٹنڈنٹ صاحب سے بقیہ نقد حسب نرخ ذیل خرید کر سکتے ہیں یعنی نرخ چار اونس کے تین کا چار روپیہ آٹھ آنے ; آٹھ اونس کے تین کا سولہ روپیہ آٹھ آنے ; ایک پونڈ کے تین کا سولہ روپیہ

یہ دوا کلکتہ کے بڑے بڑے دوائی اور دسی دوا خانوں میں بنتی ہے مسوائے قیمت مذکورہ بالا کے محصول ذاک چار اور آٹھ اونس کے تین کا آٹھ آنے ; اور ایک پونڈ کے تین کا بارہ آنے

CRYSTALLYNE CINCHONA
FEBRIFUGE.

A new and improved preparation made at the Government Factory from Red Cinchona Bark. This is a more perfect substitute for Quinine than the ordinary uncrystallized Febrifuge. It can be purchased by Government officers for public and charitable purposes, and by any one taking *twenty pounds and upwards* at a time, from the Superintendent, Royal Botanic Garden, Seebpore, near Calcutta, *for cash only*, at the following rates : per four-ounce tin, *Rs. 6-8* ; per eight-ounce tin, *Rs. 12-8* ; per pound tin, *Rs. 24*. The general public can be supplied by the Superintendent, Royal Botanic Garden, *for cash only*, at the undernoted rates : per four-ounce tin, *Rs. 8-8* ; per eight-ounce tin, *Rs. 16-8* ; per pound tin, *Rs. 32*. This medicine is also sold by the principal European and Native druggists in Calcutta. Postage, four annas per four-ounce tin, eight annas per eight-ounce tin, and twelve annas per pound tin, in addition to the foregoing rates.

کرسٹلین سنکونا دوائی بخار

لال سندونا بارک کی ایک نئی اور عمدہ دوا گورنمنٹ فابری میں تیار ہوئی ہے معمولی بے صاف کی ہوئی دوائی بخار سے کوہن کے لئے بہت خوب فایہ مقام ہے اور سب پر متصل کلکتہ کے ہوائی گارڈن یعنی کمپنی باغ کے سپرنٹنڈنٹ صاحب سے ہر ایک ملازم سرکاری ہم اور خیرات کے لئے اور وہ لوگ جو ایک مشیت بیس پونڈ لیں نقد اس دوا سے خرید سکتے ہیں یعنی چار اونس کے تین کا چھ روپیہ آٹھ آنے ; آٹھ اونس کے تین کا بارہ روپیہ آٹھ آنے ; اور ایک پونڈ کے تین کا سولہ روپیہ

اور عام لوگوں کو ہوائی گارڈن یعنی کمپنی باغ کے سپرنٹنڈنٹ صاحب سے نقد اس دوا پر مل سکتا ہے یعنی چار اونس کے تین کا آٹھ روپیہ آٹھ آنے ; آٹھ اونس کے تین کا سولہ روپیہ آٹھ آنے اور ایک پونڈ کے تین کا سولہ روپیہ آٹھ آنے اور سوائے ان کے جو کوئی ایک مشیت بیس پونڈ خرید لینے سے بقیہ نقد حسب نرخ ذیل خرید کر سکتے ہیں یعنی نرخ چار اونس کے تین کا چار روپیہ آٹھ آنے ; آٹھ اونس کے تین کا سولہ روپیہ آٹھ آنے ; ایک پونڈ کے تین کا سولہ روپیہ آٹھ آنے

METEOROLOGICAL PUBLICATIONS FOR SALE.

At the Meteorological Office, No. 5, Russell Street; also at Messrs. Thacker, Spink & Co., at the prices specified below:—

- Report on the Meteorology of India in 1875**, 4to, 89 pages text, 297 pages tables, 3 charts. Rs.
- Report on the Meteorology of India in 1876**, 4to, 97 pages text, 340 pages tables, 3 charts. Rs.
- Report on the Meteorology of India in 1877**, 4to, 193 pages text, 375 pages tables, 3 charts. Rs.
- Report on the Meteorology of India in 1882**, 4to, 152 pages text, 298 pages tables, 8 charts. Rs.
- Report on the Meteorology of India in 1883**, 4to, 150 pages text, 305 pages tables, 9 charts. Rs.
- Report on the Meteorology of India in 1884**, 4to, 153 pages text, 305 pages tables, 4 charts. Rs.
- Indian Meteorological Memoirs**, Vol. I, Part I, 4to, 118 pages, 9 plates. Rs. 8.
- Indian Meteorological Memoirs**, Vol. I, Part II, 4to, 63 pages, 4 plates. Rs. 8.
- Indian Meteorological Memoirs**, Vol. I, Part III, 4to, 86 pages, 2 plates. Rs. 8.
- Indian Meteorological Memoirs**, Vol. I, Part IV, 4to, 62 pages, 8 plates. Rs. 8.
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Treasury Officer, Burdwan
BURDWAN COLLECTORATE,
The 19th May 1880



The Gazette of India.

PUBLISHED BY AUTHORITY.

No. 24.

SIMLA, SATURDAY, JUNE 12, 1886.

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The Oudh Wastaks Bill, 1886.

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PART I.

Government of India Notifications, Appointments, Promotions, &c.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

Simla, the 11th June, 1886.

No. 10.—His Excellency the Governor-General, under the authority vested in him by the Statute 24 & 25 Vic., Cap. 67, Section 10, has been pleased to nominate Syed Amer Hassan, officiating Presidency Magistrate, Calcutta, to be an Additional Member of the Council of the Governor-General for the purpose of making Laws and Regulations.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

HOME DEPARTMENT.

NOTIFICATIONS—PUBLIC.

Simla, the 8th June, 1886.

No. 822.—The Governor-General in Council is pleased, under Section 27 of the Indian Arms Act, 1878, to exempt from the operation of any prohibition and direction contained in the said Act spears of all kinds in the Arakan Hill Tracts of British Burma.

The 10th June, 1886.

No. 820.—His Excellency the Governor-General is pleased to confer upon the undermentioned officers the privilege of private entrée to Government House:—

The Inspector-General of Forests to the Government of India.

MEDICAL.

The 10th June, 1886.

No. 212.—The services of Surgeon-Major J. L. Corbett, M.D., are placed permanently at the disposal of the Government of the North-Western Provinces and Oudh, with effect from the 8th May, 1885.

No. 216. The services of Surgeons G. A. Emerson, Medical Officer, 40th Bengal Cavalry, and F. D. C. Hawkins, officiating Medical Officer, 40th Bengal Infantry, are placed temporarily at the disposal of the Government of the North-Western Provinces and Oudh.

JUDICIAL.

The 8th June, 1886.

No. 759.—The services of Captain W. S. Hewett, 8th Bengal Infantry, are placed temporarily at the disposal of the Government of the Punjab for employment as an officiating Cantonment Magistrate.

No. 763.—The Hon'ble J. O'Kineale, a Judge of the High Court of Judicature at Fort William in Bengal, has obtained privilege leave for one month, with effect from the 13th August, 1886.

PATENTS.

The 7th June, 1886.

No. 664.—Specifications of the undermentioned inventions have been filed, under the provisions of Act XV of 1850, in the Office of the Secretary to the Government of India in the Home Department. Copies have been sent to one of the Secretaries to each of the Governments of Bengal, Fort St. George, Bombay, and the North-Western Provinces. A copy of every specification is open to public inspection, at all reasonable hours, at the Office of the Secretary to the Government of India in the Home Department at the Presidency, upon payment of a fee of one Rupee. A certified copy of any specification will be given to any person requiring the same on payment of the expense of copying.—

No. 22 of 1885.—Walter Macfarlane, of Glasgow Foundry, Pollockpark, Glasgow, in the County of Lanark, North Britain, Engineer, for improvements in closer and mangles.

No. 177 of 1885.—Hafiz Fakker Mahomed, of Rooskee, for improvements in sugarcane-crushing mills.

No. 38 of 1886.—James Howard and Edward Tenney Benfield, both of Bedford, England, Agricultural Engineers, for improvements in railways sleepers and chairs.

No. 63 of 1886.—James Andrew Ramsay Main, of 74, Gordon Street, Glasgow, in the County of Lanark, North Britain, Engineer, and John Dick, of 213, Sarsen Street, Glasgow, a cooper, Engineer, for improvements in withering and drying leaves of plants, and in apparatus, culture, and in apparatus therefor and connected therewith.

A. P. MACDONNELL,

Offg. Secretary to the Government of India.

REVENUE AND AGRICULTURAL DEPARTMENT.

NOTIFICATION.—SURVEYS.

Simla, the 11th June, 1886.

No. 520—83-10 S.—Consequent on the departure on furlough of Mr. T. W. H. Hughes, officiating Superintendent, Geological Survey of India, the following officiating appointments are made, with effect from the 26th ultimo.—

Mr. R. D. Oldham, Deputy Superintendent, 2nd Grade, to officiate as Superintendent.

Mr. C. S. Middlemiss, Assistant Superintendent, 3rd Grade, to officiate as Deputy Superintendent, 2nd Grade.

C. J. LYALL,

Offg. Secretary to the Government of India.

FOREIGN DEPARTMENT.

NOTIFICATIONS.—GENERAL.

Simla, the 8th June, 1886.

No. 1143 G.—Mr. A. Wingate, C.I.E., C.S., Settlement Officer in Meywar, is appointed to hold charge of the current duties of the office of Resident in Meywar, in addition to his own duties, with effect from the 15th April, 1886.

This cancels Foreign Department Notification, No. 877 G., dated the 27th April, 1886.

The 9th June, 1886.

No. 1153 G.—Subject to the confirmation of Her Majesty's Government, the Governor-General in Council is pleased to recognize the appointment of Mr. W. G. Reddie as temporarily in charge of the office of Consular Agent for the United States of America at Rangoon, *vice* Mr. C. W. Robertson, resigned.

The 10th June, 1886.

No. 1162 G.—Lieutenant the Honorable H. D. Napier, of the King's Own Borderers, is appointed to officiate as Squadron Officer, on probation, 1st Regiment, Central India Horse, *vice* Lieutenant F. C. Grant, on furlough, with effect from the 19th May, 1886.

INTERNAL.

The 10th June, 1886.

No. 1964 I.—*Proclamation.*—In exercise of the power vested in him by Statute 28 and 29 Victoria, Chapter 17, Section 4, the Governor-General in Council is pleased to declare that the Town and Fort of Jhansi which have been ceded to the British Government in full sovereignty by His Highness the Maharaja Sindia shall be subject to the Lieutenant-Governorship of the North-Western Provinces.

INTERNAL.

The 10th June, 1886.

No. 1172 E.—Sardar Allahdad Khan is appointed to be Tahsildar of Thal Chotiāli.

No. 1173 E.—Malik Diwan Chand is appointed to be Tahsildar of Sibi.

No. 1174 E.—Munshi Sherdil Khan is appointed to be Tahsildar of Hurnāi.

No. 1175 E.—Lala Tola Ram is appointed to be Tahsildar of Quetta.

No. 1176 E.—Kazi Jalal-ud-din Khan is appointed to be Tahsildar of Pishin.

No. 1177 E.—Lala Udho Dass is appointed to be Munsiff of Sibi.

H. M. DURAND,

Secretary to the Government of India.

DEPARTMENT OF FINANCE AND COMMERCE.

NOTIFICATIONS. ACCOUNTS AND FINANCE. PUBLIC DEBT.

Simla, the 11th June, 1886.

No. 1347.—As it does not appear to be generally known that Government Promissory Notes can be readily converted into Stock Certificates, and reconverted into Promissory Notes, at the option of the holders, and that Stock Certificate-holders enjoy certain special advantages, the attention of holders of Government Securities is drawn to the following particulars:—

1. Government Promissory Notes can be converted into Stock Certificates and reconverted into Promissory Notes at any time, at the option of the holder.

2. The holders of Stock Certificates are not required to present them in person or by agent when the interest becomes due. On application made, interest will be paid to Stock Certificate-holders by warrants on any Government Treasury, which warrants will be sent by post, on the day the interest falls due, to the Stock Certificate-holders direct, or through the Treasury Officer, as they may desire.

3. Stock Certificates are not negotiable by endorsement, and are consequently of no value in the hands of a wrongful holder, and the risks arising from the possession of, or repeated transmission of, negotiable Securities are thereby avoided.

4. In the event of the loss of a Stock Certificate by theft, fire, &c., a fresh Certificate will issue on satisfactory evidence of loss.

NOTE.—Further particulars can be obtained on reference to the Public Debt Offices, Calcutta, Madras, and Bombay.

CODES.

The 10th June, 1886.

No. 1299.

CIVIL LEAVE CODE.

PAGE 200.

Section 143 (a).

Insert the following as an "Exception" under this Section:—

"Exception.—Leave may be granted to Faisildars in the North-Western Provinces and Oudh by Commissioners of the Divisions in which they are serving."

D. M. BARBOUR,

Secretary to the Government of India

MILITARY DEPARTMENT.

Simla, the 11th June, 1886.

APPOINTMENTS.

No. 378.—NATIVE ARMY—

18th Bengal Cavalry.

The following direct appointment is made, with effect from date of joining:—

Kehar Singh to be Jemadar, *vice* Jemadar Hakim Singh transferred to the Burmah Police Levy.

No. 379.—ORDNANCE DEPARTMENT—

Lieutenant L. G. Watkins, R.A., to officiate as Commissary of Ordnance, 4th Class, *vice* Captain C. E. Jervois, R.A., officiating as Commissary of Ordnance, 3rd Class. Dated 27th May, 1886.

No. 380.—STAFF CORPS—

Lieutenant John Douglas McAndrew, Suffolk Regiment, Squadron Officer, 8th Bengal Cavalry, is admitted to the Bengal Staff Corps from the 2nd July, 1884, subject to the confirmation of the Secretary of State for India.

VOLUNTEER CORPS.

Administrative Battalion, Presidency Volunteers and Calcutta Volunteer Rifle Corps.

No. 381.—Colonel P. H. F. Harris, Bengal S. C., to be Commandant, *vice* Colonel G. F. Graham, who has resigned that appointment, with effect from the 24th May, 1886.

Cannapore Volunteer Rifle Corps.

No. 382.—Captain Horace Frederick D'Oyly Monle to be Major-Commandant, *vice* Major H. B. Sternale, who has resigned that appointment.

Mr. William Blomethrisset to be Lieutenant, to complete the establishment.

Fatehgarh Volunteer Corps.

No. 383.—Captain Robert Lewis Forbes McMullin to be Major-Commandant, *vice* Major H. M. Mackenzie, R.A., who has resigned that appointment.

Moulmein Volunteer Rifle Corps.

No. 384.—Lieutenant C. R. M. O'Brien, East Lancashire Regiment, to be Adjutant, with effect from the 6th April, 1886.

FURLOUGH AND LEAVE.

No. 385.—The undermentioned officers are granted furlough out of India, with the necessary subsidiary leave:—

Colonel J. M. McNeill, R.E., Chief Engineer, 3rd Class, Chief Engineer and Joint Secretary to the Government of Bengal, Public Works Department, (p. a.) for one year and 181 days, under rule IX of the regulations of 1868, embarking on or after 1st July, 1886.

Captain G. C. P. Onslow, R.E., Military Works Department, (p. a.) for one year and 182 days, under rule IX of the regulations of 1868.

No. 386.—The undermentioned officers have been granted extensions of furlough by the Secretary of State for India:—

Colonel E. T. Thackeray, V.C., R.E., (m. c.) for four months.

Major A. deC. Rennick, Bengal S. C., (m. c.) for four months.

Major T. Howard, R.E., (p. a.) for forty-seven days.

Captain C. Hoskyns, R.E., (p. a.) for twenty-three days.

Surgeon-Major W. R. Hooper, (m. c.) for six months.

PROMOTIONS.

No. 387.—The following promotions are made, subject to Her Majesty's approval :—

BENGAL STAFF CORPS.

To be Lieutenant-Colonels. Dated 8th June, 1886.

Major Charles Edward Siskeld.
Major John Ronald Campbell.
Major Edward Harris Steel.
Major Frederick Alexander Wilson.
Major Vincent Rivaz.
Major and Brevet-Colonel Arthur Conolly.

INDIAN ARMY.

To be Lieutenant-Colonels. Dated 8th June, 1886.

Major Joseph George Thomson Carruthers, General List, Infantry.
Major Aislabie Landon, General List, Infantry.
Major Beville Grenville Vyvyan, General List, Infantry.

No. 388.—COLONEL'S ALLOWANCE—

Colonel Boyce William Dunlop Morton, Bengal S. C., is admitted to the Colonel's allowance,—9th June, 1886.

No. 389.—COMMISSARIAT DEPARTMENT—

Sergeant Thomas Davies to be Sub-Conductor, with effect from the 19th December, 1885, *vice* Sub-Conductor J. Quinn, deceased.

Sergeant Thomas Green to be Sub-Conductor, with effect from the 17th March, 1886, *vice* Sub-Conductor G. Dowsett, deceased.

Sergeant William Wilson to be Sub-Conductor, with effect from the 29th March, 1886, *vice* Sub-Conductor W. Evans, pensioned.

No. 390.—NATIVE ARMY—

10th Bengal Lancery.

In G. G. O. No. 145 of 1886, promoting Jemadar Kanhī and Kot-Dufladar Biddha, for "1st February, 1886," read "18th September, 1885."

16th Bengal Infantry.

Jemadar Gobind Parshād Mīr to be Subadar;
Havildar Bishan Singh to be Jemadar, *vice* Subadar Lachman Singh, deceased,—
with effect from the 26th April, 1886.

26th Bengal Infantry.

Jemadar Mansur Khan to be Subadar, *vice* Subadar Khanmoolah, invalided;
Jemadar Narāyan Singh to be Subadar, *vice* Subadar Sāhib Singh, invalided;
Havildar Pīlā Singh to be Jemadar, *vice* Jemadar Narāyan Singh, promoted,
Havildar Nāzīr to be Jemadar, *vice* Jemadar Mansūr Khan, promoted,—
with effect from the 1st May, 1886.

No. 391.—ORDNANCE DEPARTMENT—

Sub-Conductor Thomas J. McNamara, on probation, is confirmed in his present grade, with effect from the 17th November, 1885.

No. 392.—PUNJAB FRONTIER FORCE—

(Queen's Own) Corps of Guides.

Havildar Lénú to be Jemadar, *vice* Jemadar Thégá, deceased, with effect from the 15th May, 1886.

RETIREMENTS.

No. 303.—The undermentioned officers are permitted to retire from the service, with effect from the dates specified, subject to Her Majesty's approval :—

Colonel Frederick Peere Williams Freeman, Bengal S. C.,—15th June, 1886.
Colonel Harry deBrett, Bengal S. C.,—31st May, 1886.

MILITARY WORKS DEPARTMENT.**APPOINTMENTS.**

No. 394.—Captain J. C. M. Beresford, R.E., Supernumerary Executive Engineer, 4th Grade, is appointed permanently to that grade, with effect from the 13th April, 1886.

MARINE DEPARTMENT.**APPOINTMENTS.**

No. 29.—Mr. D. Mitchell, Builder's Foreman, Bombay Dockyard, to be officiating Chief Builder, Kidderpore Dockyard.

FURLOUGH AND LEAVE.

No. 30.—Mr. W. McIver, Chief Builder, Kidderpore Dockyard, is granted two years' leave on medical certificate, under Section 128, Civil Leave Code.

E. H. H. COLLEN, *Lieut.-Colonel,*
Offg. Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.**NOTIFICATIONS.**

Simla, the 5th June, 1886.

No. 147.—Major E. Harvey, R.E., Executive Engineer, 1st Grade, Punjab, officiated as a Superintending Engineer from the 5th March to 7th May, 1886.

Mr. H. A. S. Fenner, Executive Engineer, 1st Grade, Punjab, is promoted to Superintending Engineer, 3rd Class, temporary rank, with effect from the 8th May, 1886.

The 8th June, 1886.

No. 148.—Mr. A. E. Adie, Class II, Superior Revenue Establishment of State Railways, Traffic Department, is transferred from the Establishment under the control of the Chief Commissioner, Burma, to that under the Director-General of Railways.

The 9th June, 1886.

No. 150.—The Governor-General in Council is pleased to sanction, under Section 4 of the Indian Railway Act of 1879, the use of locomotive engines, or other locomotive power and carriages and wagons to be drawn or propelled thereby, on the Cherrapunji Mountain Railway.

The 10th June, 1886.

No. 151.—Babu Nursing Chunder Mookerjee is appointed to Class IV of the Superior Revenue Establishment of State Railways, Stores Department.

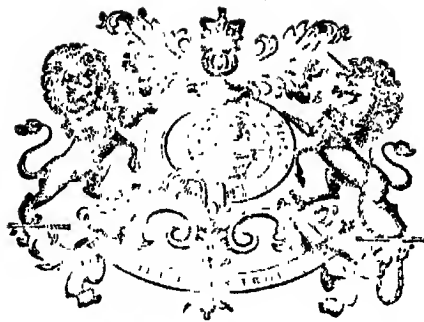
TELEGRAPH.

The 8th June, 1886.

No. 149.—The following permanent promotions are made in the Indian Telegraph Department, *vice* Mr. H. P. Owen, deceased, with effect from 27th March, 1886 :

Names.	From	To
Mr. C. H. Reynolds	Superintendent, 3rd Grade	Superintendent, 2nd Grade.
Mr. J. A. Briggs	Superintendent, 4th Grade, and officiating Superintendent, 3rd Grade.	Superintendent, 3rd Grade.
Mr. H. W. A. Fanshawe	Superintendent, 5th Grade	Superintendent, 4th Grade.
Mr. H. A. Kirk	Assistant Superintendent, 1st Grade, and officiating Superintendent, 3rd Grade.	Superintendent, 5th Grade.

W. S. TREVOR, *Colonel,*
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 12, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th June, 1886, and is hereby promulgated for General information:—

ACT NO. XIV OF 1886

An Act to amend the North-Western Provinces Rent Act, 1881.

WHEREAS it is expedient to amend the North-Western Provinces Rent Act, 1881, it is hereby enacted as follows:—

1. This Act may be called the North-Western Provinces Rent Act, 1886; and it shall come into force at once.

2. For the last paragraph of section 95 of the North-Western Provinces Rent Act, 1881, the following shall be substituted, namely:—

“For the purposes of the Court-fees Act, 1870, the amount of fee payable in the cases next hereinafter mentioned shall be computed as follows:—

- “(i) in applications under clause (e), and in appeals from orders passed on applications under that clause, as in a suit for possession of the land to which the application or appeal relates;
- “(ii) in applications under clauses (d), (a), (o) and (p), and in appeals from orders passed on applications under clauses (d), (e), (f), (l), (n), (o), (p), (r) and (s), according to the rent of the land to

which the application or appeal relates payable for the year next before the date of presenting the application, or, if in any case the fee cannot be so computed, then according to the annual letting value of the land as estimated by the applicant or appellant, as the case may be;

- “(iii) in applications under clause (m), and in appeals from orders passed on applications under clauses (l), (n) and (t), according to the amount claimed in the application or in the petition of appeal, as the case may be.”

3. After section 100 of the same Act the following sections shall be inserted, namely:—

“100A. The Board may, on cause shown to its satisfaction, transfer any suit, application or appeal, or class of suits, applications or appeals, from any Court of Revenue to any other Court of Revenue competent as regards the nature of the case or class of cases to deal therewith under the provisions of this Act.

“100B. (1) The Commissioner of a Division may, with the sanction of the Local Government, transfer any appeal or class of appeals pending before himself to any Collector of a district within his Division.

“(2) The order passed by a Collector on an appeal transferred to him by the Commissioner under sub-section (1) shall be subject to appeal and revision in the same manner as if it had been passed by the Commissioner, and not otherwise.

“(3) The Local Government may by order recall any appeal transferred to a Collector under

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

For publication.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th June, 1886, and is hereby promulgated for general information:—

ACT NO. XV OF 1886

The Bill to amend the North-Western Provinces Land Revenue Act, 1873.

Whereas it is expedient to amend the North-Western Provinces Land Revenue Act, 1873, in manner hereinafter appearing, It is hereby enacted as follows:—

New section inserted. 1. After section 11 of the said Act, the following section shall be inserted, namely:—

The following Report of the Select Committee on the Bill to amend the North-Western Provinces Land Revenue Act, 1873, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th May, 1886:—

LEGISLATIVE DEPARTMENT.

Whereas the Bill to amend the North-Western Provinces Land Revenue Act, 1873, was introduced by the Governor General of India for the purpose of making Laws and Regulations on the 20th May, 1886, and is approved by the Council of the Governor General of India, It is hereby enacted as follows:—

2. The Bill has been published in the following manner:—

The Bill has been published in the following manner:—

Gazette.		Date.	
Gazette of India.	...	20th May 1886.	...
North-Western Provinces and Oudh Gazette.	...	27th May 1886.	...

3. We recommend that the Bill be passed without amendment.

C. P. DEWEET,
S. C. RAYLEY,
A. COLVIN,
W. W. HUNTER.

The 50th May, 1886.

S. HARVEY JAMES.

Secretary to the Government of India.

"11A. 1/ The Local Government may, from time to time, with the previous sanction of the Governor General in Council, appoint an Additional Commissioner in a Division.

"12. An Additional Commissioner shall hold his office during the pleasure of the Local Government.

"13. An Additional Commissioner shall exercise such powers, and discharge such duties, of the Commissioner of the Division under this Act, or under any other law for the time being in force, as the Local Government may, from time to time, prescribe, but only in such cases as the Commissioner of the Division may direct.

"14. This Act and every other law for the time being applicable to the Commissioner of the Division shall apply to the Additional Commissioner, when exercising any powers or discharging any duties under subsection (13), as if he were the Commissioner of the Division."

S. HARVEY JAMES.

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 12, 1880.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT.

First publication

The following Bill was referred to a Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th June, 1880:—

NO. 7 OF 1880.

A Bill to consolidate and amend the law relating to rent in Oudh.

NOTE.—The 'marginal quotations' refer to portions of sections of the Oudh Rent Act omitted from the Bill.

WHEREAS it is expedient to consolidate and amend the law relating to rent in Oudh and to other matters connected therewith; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY

1. This Act may be cited as the Oudh Rent Act, and shall extend only to Oudh.

2. Act XIX of 1868 is hereby repealed, but repeal of Act XIX of all notifications published and rules made under the repealed Act shall, so far as they are consistent with the present Act, be deemed to have been published and made hereunder.

3. In this Act, unless there be something repugnant in the subject or context,—

"Oudh" means the territory under the administration of the Chief Commissioner of Oudh at the time of the passing of this Act.

"Court" means any judicial officer presiding in a Court of Revenue for the disposal of matters under this Act:

*The Oudh Rent Bill.**(Chapter 1.—Preliminary.—Section 3.)*

"Suit." "suit" means a suit under this Act.

"Assistant Commissioner" includes an Extra

Assistant Commissioner:

"land" applies only to land assessed to the

"Land." land-revenue, and includes land whereof the revenue

has been assigned by Government; it also includes the nagtherd produce of land, whether spontaneous or otherwise, and whether growing in earth or water:

"revenue" means the money payable to the

"Revenue." Government on account of land:

"rent" means the money, or the portion of the produce of land, payable

"Rent." on account of the use or occupation of land, or of any right in land, or on account of the use of water for irrigation:

"proprietor" does not include an under-proprietor. Where there are

"Proprietor." two private rights of property, one superior and the other subordinate, in the same land, "proprietor" means the holder of the superior right only:

"Proprietary right." "proprietary right" means a proprietor's right

in land:

"under-proprietor" means any person possessing a heritable and

"Under-proprietor." transferable right of property in land for which he is liable to pay rent:

"Under-proprietary right." "under-proprietary right" means an under-proprietor's right in land:

"tenant" means any person, not being an

"Tenant." under-proprietor, who is liable to pay rent. In the fol-

lowing sections of this Act, 7, 10, 13, 14, 15, 18, 19, 23, 28, 39, 40, 41, 42, 43, 47 (A), 83, 101, 111 and 116, but in no others, the expression "tenant" shall be held to include a *thikadār* or person to whom the collection of rents in a village or portion of a village has been leased by the landlord:

"landlord" means any person to whom an

"Landlord." under-proprietor or tenant is liable to pay rent:

"representative" means an heir or any other

"Representative." person taking by operation of law or by will a beneficial interest in the property of a deceased person. It includes the guardian of a minor and the legal curator of a lunatic or idiot: and

"landbardār" means any person who has

"Landbardār." executed an engagement for the payment of the revenue to Government, or for the payment to a landlord of the rent due from under-proprietors holding a sub-settlement:

"prescribed" means prescribed from time to time by the Local Govern-

"Prescribed." ment by rules made under this Act.

*The Oudh Rent Bill.**(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 4-7.)*

[Act VIII, 1885, section 178.]

4. *Nothing in any contract made between a landlord and a tenant before or after the passing of this Act shall entitle a landlord to eject a tenant or enhance his rent otherwise than in accordance with the provisions of this Act.*

Nothing in any contract made between a landlord and a tenant after the passing of this Act shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them :

Provided that nothing in this section shall affect the terms or conditions of a lease granted bonâ fide for the reclamation of waste land.

CHAPTER II.

OF CERTAIN RIGHTS AND LIABILITIES OF LANDLORDS, UNDER-PROPRIETORS AND TENANTS.

Right of Occupancy.

5. Tenants who have lost all proprietary right, whether superior or subordinate, in the lands which they hold or cultivate, shall, so long as they pay the rent payable for the same according to the provisions of this Act, have a right of occupancy under the following rule :—

Every such tenant who, within thirty years next before the thirteenth day of February, 1856, has been, either by himself, or by himself and some other person from whom he has inherited, in possession as proprietor in a village or estate, shall be deemed to possess a heritable but not a transferable right of occupancy in the land which he cultivated or held in such village or estate on the twenty-fourth day of August, 1866 : provided that such land has not come into his occupation, or the occupation of the person from whom he has inherited, for the first time since the said thirteenth day of February, 1856 : provided also that no such tenant shall have a right of occupancy in any village or estate in which he or any co-sharer with him possesses any under-proprietary right.

Nothing contained in the former part of this section shall affect the terms of any agreement in writing hereafter entered into between a landlord and tenant.

5. (4). *Nothing contained in section 5 shall be deemed to restrict the power of the landlord to confer on any persons other than those therein mentioned a right of occupancy in the lands which they hold or cultivate.*

6. If a tenant having a right of occupancy be ejected, in accordance with the provisions of section 37, from the land in which he possesses such right, he shall thereupon lose his right of occupancy in such land.

Tenants' Right to Pattas.

7. Every tenant is entitled to receive from his landlord a *patta* or memorandum of the terms of the holding, signed by him

The Oudh Rent Bill.

*(Chapter II.—Of certain Rights and Liabilities of Landholders, Under-
proprietors and Tenants.—Sections 8-13.)*

or his authorized agent, and containing the following particulars:—

the quantity of land and, where the fields comprised in the *patta* have been numbered in a Government survey, the number of each field

the term for which the *tenancy* is to run

the amount of rent payable

the instalments in which and the times at which the same is to be paid

[any special conditions of the lease:]

and, if the rent is payable in kind, the proportion of produce to be delivered, and the time, manner and place of delivery.

8. Tenants having a right of occupancy are entitled to receive *pattas* having right of occupancy is entitled in accordance with the provisions contained in sections 32, 33 and 34.

9. Tenants not having a right of occupancy are entitled to *pattas* for the terms and at the rates prescribed in Chapter IV (B) of this Act

Landlords' Right to Counterparts.

10. Every landlord who grants a *patta* to a tenant is entitled to receive from the tenant a counterpart executed by him.

11. Vide section 43 (A).

Arrears of Revenue or Rent

12. Any instalment of revenue or rent which is not paid on or before the day when the same becomes due, whether under a written agreement or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrear of revenue or rent, as the case may be:

Provided that, unless the proprietor and under-proprietor shall have otherwise agreed in writing, the rent payable to the former by the latter shall be held to become due one month before the date fixed for the payment of the revenue on account of the village in which the land in respect of which such rent is payable is situate, and to be payable in the same number of instalments as the said revenue; and the amount of each instalment of such rent shall bear the same proportion to the whole of such rent payable for the year as the amount of each instalment of such revenue bears to the whole of such revenue payable for the year.

Receipts.

13. Receipts for rent and acknowledgments of the tender of rent shall specify the year or years on account of which it has been paid or tendered; and any refusal to make such specification shall be held to be a withholding of a receipt or acknowledgment

If such receipt or acknowledgment is withheld from any under-proprietor or tenant without sufficient cause, he may recover compensation from the landlord, not exceeding the amount so paid or tendered.

The Oudh Rent Bill.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 14-15.)

Deposit of Revenue or Rent in Court without Suit.

[having a right of occupancy, or holding under an unexpired lease or under an agreement or decree]

14. If any co-sharer, under-proprietor, or tenant [] shall, at the Court, without suit, place where the revenue or land revenue is payable, amount of [] rent of the land held or cultivated by him is usually payable, tender to the person authorized to receive the same payment of the full amount of such revenue or rent due in respect of such land, and if such amount is not accepted and a receipt not forthwith granted, it shall be lawful for the co-sharer, under-proprietor or tenant, without any suit having been instituted against him, to deposit such amount in Court to the credit of the person authorized to receive it.

Such deposit shall, so far as regards the co-sharer, under-proprietor or tenant, and all persons claiming through or under him, operate as a payment then made to the *landbādār* or *landlord* of the amount so deposited.

15. The Court shall receive such deposits on [] the within application of [] the co-sharer, under-proprietor or tenant, or his recognized agent; the application shall bear a stamp of eight annas; and on such co-sharer, under-proprietor or agent making a declaration in the form set forth in Schedule A hereto annexed, or as near the circumstances will admit, the Court shall give him a receipt for the deposit.

Such declaration shall be verified in the manner prescribed for the verification of plaintiffs in the Code of Civil Procedure, and the provisions of sections 52 of the said Code shall apply to the person making the verification. XIV of 1882

Upon receiving the money so deposited, the Court shall issue to the person to whose credit it has been deposited a notice in the form set forth in Schedule B hereto annexed.

Such notice shall be served by the proper officer, without the payment of any fee, upon the person to whom it is addressed, or upon his recognized agent.

In the absence of any such agent, it may be served by putting up a copy of the same at the court-house, and another copy at the ordinary place of residence, within the jurisdiction of the Court, of such person, or, if there be no such place, at the place where the revenue or rent is usually paid to the *landbādār* or *landlord*, as the case may be, for the land in respect of which the money has been deposited.

If the person on whom such notice is served, or his recognized agent, appears and applies that the money in deposit be paid to him, it shall immediately be paid accordingly.

The Oudh Rent Bill.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 16-19)

16. Whenever a deposit has been made under Limitation of suits for, the provisions of this Act, balance of revenue or, no suit shall be brought rent. against the depositor or his representative on account of any revenue or rent which accrued due in respect of the land last hereinbefore mentioned prior to the date of the deposit, unless such suit is instituted within six months from the date of the service of the notice mentioned in section 15.

17. If, at the time of passing the decision in compensation for any such suit, the Court is not satisfied that the full amount due or rent. of revenue or rent due at the time of the deposit was tendered to, and was not accepted by, the lamboardar or landlord or his recognized agent, as the case may be, or that a receipt or acknowledgment was withheld for such amount without sufficient cause, the Court may award to such depositor compensation from the lamboardar or landlord, not exceeding the amount so paid or tendered.

If the Court be satisfied that the amount of the deposit was less than the amount of revenue or rent due, the Court shall pay the amount of the deposit to the lamboardar or landlord, and shall make a decree for the balance due by the depositor.

Illegal Enforcement of Payment of Rent.

18. If payment of rent or of any sum in excess Compensation to under-proprietor or tenant for illegal enforcement of payment. of the rent legally claimable is illegally enforced, and any under-proprietor or tenant institutes a suit to recover compensation for such enforcement, the Court may award to him compensation, not exceeding the sum of rupees two hundred, in addition to any amount for which it makes a decree in respect of such payment.

An award of compensation under the former part of this section shall not bar any prosecution to which the person enforcing such payment may be liable under any law for the time being in force.

Abatement of Rent.

19. No suit for an abatement of rent shall be Suit for abatement of rent by under-proprietor or tenant. brought by any under-proprietor or tenant, except on the ground that the area of the land has been diminished by diluvion, or on some ground specified in any lease, agreement or decree, under which he holds:

Provided that, if the under-proprietor hold a sub-settlement in a revenue-paying estate, no such abatement shall be allowed to the under-proprietor, unless a remission of revenue has been allowed on the same ground and by competent authority in the same estate.

The Oudh Rent Bill.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 20-21 (A).)

[35 and 36]

[provided that if the under-proprietor hold a sub-settlement, or if the tenant hold a lease for a term of not less than five years, or have a right of occupancy in a revenue-paying estate, no such remission shall be allowed to him, unless a remission of revenue shall have been allowed on the same ground and by competent authority in the same estate]

[or unless it has been let to any other person by such landlord or agent]

Remission of Rent.

20. Notwithstanding anything contained in section 19 [] the Court, in making a decree for an arrear of rent, may allow such remission from the rent payable by any under-proprietor or tenant as appears equitable, if the area of the land in his occupation has been *materially* diminished by diluvion or otherwise, or if the produce of such land has been diminished by drought or hail, or other calamity beyond his control, to such an extent that the full amount of rent payable by him cannot, in the opinion of the Court, be equitably decreed.

Relinquishment of Land.

21. Every tenant shall continue liable for the rent of the land in his holding, unless on or before the fifteenth of March in any year he gives notice *in writing* to the landlord or his recognised agent of his desire to relinquish such land, and relinquishes it accordingly [].

If the landlord or his recognised agent refuse to receive such notice *or to sign and deliver a receipt for the same*, the tenant may, *before the latest date prescribed for giving such notice*, apply to the tahsildar or proper officer, and written notice of such desire shall thereafter be served on such landlord or agent, and the tenant shall pay the costs of service.

The notice shall, if practicable, be served personally on the landlord or agent; but if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the *chaurpal* or other conspicuous place in the village wherein the land is situate.

21. (A). *If a tenant voluntarily abandons his holding without informing his landlord and without arranging for the cultivation of the holding, it shall be lawful for the landlord at any time after the fifteenth of May to enter on the holding. Before a landlord enters under this section, he shall file a notice in the prescribed form with the supervisor-kanungo, stating that he has treated the holding as abandoned and is about to enter on it accordingly.*

When a landlord enters under this section, the tenant shall be entitled to institute a suit under section 83, clause 10, of this Act, to recover occupancy of the holding; and the Court shall, on being satisfied that the tenant did not voluntarily abandon his holding, order recovery of possession on such terms, if any, with respect

Act VIII, 1885, section 87.

The Oudh Rent Bill.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 22-25.)

to compensation to persons injured and payment of arrears of rent as to the Court may seem just.

Compensations for Tenant's Improvements.

22. If any tenant, or the person from whom he has inherited, make any improvement on the land in his occupation as are hereinafter mentioned, either he or his representative shall be ejected from the same land, unless and until he or his representative, as the case may be, has received compensation for the [] improvements made on the land by him, or the person from whom he has inherited, or whom he represents [].

[outlay, in money or labour, or both, expended in making such]
[within thirty years next before the date of such enhancement or ejection]

23. Except as provided in the next following section, no tenant shall be entitled to claim compensation for an improvement made subsequently to the passing of this Act without the written consent of the landlord.

24. If in any case the tenant apply to the Deputy Landlord for his written consent to his making an improvement on his holding, and the landlord withhold or refuse to grant it, it shall be lawful for the tenant to apply to the Deputy Commissioner for sanction to make the improvement. The Deputy Commissioner, after taking into consideration any objections which the landlord may here to urge, either on the ground that—

(a) the improvement is too costly or is unsuitable to the nature of the tenant's holding, or that

(b) he is prepared to make such improvement himself,

shall grant sanction on such conditions as he may consider fair and equitable or refuse the application. No appeal shall be against an order passed by the Deputy Commissioner under this section.

25. The word "improvements," as used in this Act means works by which the annual letting value of the land has been, and at the time of demanding compensation continues to be, increased, and comprises—

1st. The construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage, and for protection against floods; the construction of wells; the reclaiming and clearing of waste lands and jungles, and other works of a like nature.

2nd.—The renewal or reconstruction of any of the foregoing works, or such alterations therein or additions thereto as are not required for maintaining the same, and which increase durably their value.

*The Oudh Rent Bill.**(Chapter III.—Commutation and Payment of Rent in kind.—Sections 25A-28.)*

Principle on which compensation is to be calculated **25 (A).** *In estimating the compensation to which a tenant is entitled regard shall be had—*

a) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement;

Act VIII, 1885, section 87

b) to the condition of the improvement and the probable duration of its effects;

c) to the labour and capital required for the making of such an improvement;

d) to any reduction or remission of rent or any other advantage given by the landlord to the tenant in consideration of the improvement; and

e) in the case of a reclamation, or of the conversion of uncultivated into irrigated land, to the length of time during which the tenant has had the benefit of the improvement.

25 (B) *When a Court has assessed the amount of the compensation due to a tenant under the provisions of the preceding sections, it may, if both landlord and tenant desire that the compensation assessed be paid wholly in money, or that it be paid wholly in part by in some other way, proceed to give judgment according to the terms agreed upon by them.*

26 *A landlord shall be entitled to make any improvement at the expense of the tenant, if he has given notice to the tenant of his intention to do so, and if the tenant has not given a notice of opposition, with or without the assent of the tenant.*

A landlord for any purpose connected with improvement shall, if the works to be constructed in the holding of any tenant give notice to the tenant of his intention to do so.

Survey and Measurement

27. Every landlord, his agents and surveyors, or his servants, may at all reasonable times enter upon any land comprised in his estate for the purpose of surveying and measuring the same.

CHAPTER III

COMMUTATION AND PAYMENT OF RENT IN KIND.

28. In any district in which a settlement of revenue is in progress, it shall be in the discretion of any officer employed in making or revising such settlement, in any case

*The Oudh Rent Bill.**(Chapter IV.—Enhancement and fixing Rates of Rent.—Sections 30-32.)*

in which the rent of a tenant having a right of occupancy is paid in kind, or by the estimated value of a portion of the crop, to commute, on the application either of the landlord or the tenant, such rent into a rent in money.

[The amount of rent thus fixed shall be binding upon the parties concerned.]

[All decisions already passed by any such officer, commuting rents in kind or by valuation to rents in money, shall, subject to the same appeal as is given by this Act in respect of decisions passed in suits, be binding on the parties concerned.]

30. Wherever rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other procedure of a similar nature, requiring the presence both of the tenant and landlord either personally or by a recognized agent, if either party neglect to be present at the proper period, or if a dispute arise between the parties regarding such division, estimate or appraisement, either party may present an application to the Court on a paper bearing a stamp of eight annas, requesting that a proper officer be deputed to make the division, estimate or appraisement.

31. On receiving such application, the Court shall issue a written notice to the other party to attend on the date and at the place specified in the notice, and shall depute an officer before whom the division, estimate or appraisement shall be made.

The award of such officer in respect of such division, estimate or appraisement shall be final, unless, within one month from the date thereof, either party institutes a suit to set it aside.

329. The Chief Commissioner of Oudh may extend the provisions of section 28 to any district or portion of a district in which a settlement of revenue is not in progress; and may declare that officers are empowered to hear and decide cases under this section.

and may make rules for the guidance of officers acting under this section and section 28, and, from time to time, with the like sanction alter and add to the rules so made.

Provided that such rules, alterations, and additions are consistent with this Act.]

CHAPTER IV

ENHANCEMENT AND FIXING RATES OF RENT.

A.—Tenants with Right of Occupancy

32. No tenant having a right of occupancy in any land shall, in case of dispute as to the rent to be paid in respect of such land, be liable to an enhancement of the rent, except in pursuance of a decree made under this Act on some one of the following grounds (that is to say):—

1st ground.—That the rate of rent paid by him is below the rate of rent usually paid, by the same class of tenants having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding such rate.

2nd ground.—That the rate of rent paid by him is more than 12½ per cent. below the rate of rent usually paid, by tenants of the same class not having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

The Oudh Rent Bill.

(Chapter IV.—Enhancement and fixing Rates of Rent.—Sections 34-35A)

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands not exceeding such rate, *viz.* 4½ per cent.

3d ground.—That the quantity of land held by him exceeds the quantity for which he has previously paid rent.

Rule.—In this case the Court shall decree rent for the land in excess, at rates to be fixed by the first or the second of the rules contained in this section, as the case may be.

Nothing contained in the previous part of this section shall affect the terms of any agreement in writing hereafter entered into between a landlord and tenant.

33. After a decision has been passed in accordance with section 32 no rent shall be for reassessment of such rent until the expiration of five years from the date of such decision except on the said 3rd ground, or, in the case referred to in section 34, until by reassessment within the said term of five years the revenue of such land has been increased.

34. On such re-assessment, if the rent of such enhancement is a tenant earned be enhanced assessment of revenue under section 32 by reason of the absence of the grounds then mentioned, the landlord may institute a suit to enhance the rent to a sum not exceeding double the average amount of the revenue imposed at such re-assessment upon land of a similar description and with similar advantages held by tenants of the same class in the same village.

B. — 11. 11. 1904. 1895

35. Every tenant, not being a tenant with a lease for years, shall, at the expiration of the term of his tenancy, be entitled to retain possession of the holding on the conditions of a statutory tenancy, and shall have at the time of the passing of this Act at the rent then payable by him for a period of seven years from the date of the last change in his rent or of the last alteration in the area of the holding.

[illegible]

Explanation—Hold the nut on a level surface, and press it
 at laid held by a thumb nail, turning the nut on a

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(Chapter IV.—Enhancement and fixing Rates of Rent.—Sections 36-36C.)

separate engagement. Such engagement may be express or implied.

36. *If the landlord desires to enhance the rent of the tenant on the expiration of statutory term of the term of seven years referred to in sections 35 and 35 (A), or at any time thereafter, he shall cause a notice to that effect to be served in the manner prescribed in section 36B. Until such notice is issued, the tenant shall be entitled to hold at the former rent.*

Provided—(a) that the enhancement shall in no case exceed one anna in the rupee or six and a quarter per cent. on the annual rent payable when the notice is issued,

(b) that the terms of this section shall not apply to a tenant paying rent in kind.

36. (A). *The notice shall be written in Hindi or Urdu; it shall state the land, the amount of the present rent and the amount of the enhancement, and shall require the tenant, if he refuses to pay the enhanced rent, to leave the land by the fifteenth day of May next following, or to institute a suit in the proper Court to contest the notice of enhancement within a month from the date on which it was served.*

36 (B). *On the application of the landlord to the District Officer or other authorized officer, such notices, the notice shall be served by such officer on or before the fifteenth day of February, and the landlord shall pay the cost of service.*

The notice shall, if practicable, be served personally on the tenant. But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situated, at the village chaurpal or other conspicuous place in the village wherein the land is situated.

36 (C). *A tenant may institute a suit to contest his liability to enhancement on any of the following grounds—*

1st—That he holds a lease or agreement or decree of Court under the terms of which he is not liable to enhancement.

2nd—That he has a right of occupancy in the land.

3rd—That the enhancement claimed is in excess of the rate authorized by law.

4th—That seven years have not elapsed since the date of the last change in the rent or alteration of the area of the holding by the landlord.

*The Oudh Rent Bill.**(Chapter IV. — Enhancement and fixing Rates of Rent.—Sections 36D-36J.)*

51h — That the notice has not been served in the manner prescribed in section 36 B.

36 (D). If the objection of the tenant is found by the Court to be invalid, or, if no suit has been instituted to contest the notice within a period of thirty days from the day on which it was served, on the expiration of such period, the tenant shall, if he retain possession of the land after the fifteenth day of May next following the date of service of the notice, be held liable for the enhanced rent.

36 (E). If the tenant accepts the enhanced rent claimed by the notice, or remains in possession of the land under the terms of the preceding section, he shall be entitled to hold the land at such rent for a further period of seven years.

36 (F). If the tenant refuses to accept the enhancement claimed and vacates the holding, he shall be entitled to recover by separate suit from the landlord compensation for any improvements made by him on the holding.

36 (G). Except in the cases mentioned in the next following section, the rent of a tenant admitted to the occupation of any land the tenancy of which has determined according to the provisions of this Act shall not exceed by more than one anna in the rupee, or six and a quarter per cent., the rent payable by the tenant immediately preceding.

36 (H).—The rent of a tenant admitted to the occupation of any land the tenancy of which has ceased in consequence of the death of a previous tenant, or of the expiry of a *thikadār* or mortgagee from lands of which he has taken cultivating possession during the period of his *thika* or mortgage, shall be such amount as may be agreed upon between him and the landlord.

36 (I). The heir of a tenant who dies during the currency of the tenancy shall have the right to retain occupation of the land at the rent payable by the deceased for the unexpired portion of the period for which the deceased tenant might have held without liability to enhancement or ejectment, and to receive compensation under the provisions of this Act for improvements, if any, effected on the holding by himself or his predecessor in interest, but shall have no right to a renewal of the tenancy or to compensation for disturbance.

36 (J). Notwithstanding anything contained in the preceding sections, the Local Government shall have power to vary, from time to time, the limit of enhancement of rent.

*The Oudh Rent Bill.**(Chapter V.—Ejectment.—Sections 36K-38A.)*

to time, within periods of not less than seven years, the limits of the enhancement to which tenants, not having rights of occupancy, are liable.

36 (K). *Nothing in the preceding sections shall bar the right of a landlord to an enhancement of rent on the ground that the productive powers of the land held by the tenant have been increased by an improvement effected by, or at the expense of, the landlord during the currency of the tenancy.*

Where an enhancement is claimed on the ground of such an improvement, the Court in determining the amount of such enhancement shall have regard to—

- firstly—the increase in the productive powers in the land caused, or likely to be caused, by the improvement;*
- secondly—to the cost of the improvement;*
- thirdly—to the cost of the cultivation required for the utilising of the improvement.*

CHAPTER V.

EJECTMENT.

Tenants with Right of Occupancy.

37. *No tenant having a right of occupancy, or holding under an unexpired lease, or special agreement, or decree of Court, shall be ejected otherwise than in execution of a decree for ejectment:*

[Act XIX, 1868, section 41.]

Provided that, if the tenant have a right of occupancy in the land from which the landlord desires to eject him, the decree shall not be made, unless, at the date of the decree, a decree against such tenant for an arrear of rent in respect of such land has remained unsatisfied for fifteen days or upwards.

Other Tenants.

38. *A tenant not having a right of occupancy, and not holding under an unexpired lease, or an agreement, or a decree of Court, may be ejected in accordance with the provisions of this Act: first, in execution of a decree for [] ejectment under section 43A or by application under section 43; or, second, by notice given by his landlord in the manner described in the next following sections.*

[Act XIX, 1868, section 42.]

38(A). *A landlord who desires to eject a tenant on the expiration of his tenancy may issue a notice of ejectment on such tenant, but shall*

[arrears of rent or for]

*The Oudh Rent Bill.**(Chapter V.—Ejectment.—Sections 39-40.)*

deposit with the notice in the hand of the officer authorized to serve the notice a sum equal to the rent payable by the tenant for the year immediately preceding as compensation for disturbance.

In the case of a tenant paying rent in kind the amount of compensation to be deposited under this section shall be a sum equal to the average annual value of the produce paid as rent during the preceding three years.

Provided that no such compensation shall be payable to a tenant in respect of so much of his holding as he has sub-let without the consent of the landlord, or in the cases provided for by sections 36 (1), 43 and 43 (A).

[Act XIX, 1868, section 43.]

33. The notice mentioned in section 38 A shall be written in Hindi and if the tenant not having in Udu; it shall specify the land from which the tenant is to be ejected; and it shall inform him that he must either (a), if he means to dispute the ejectment, institute a suit for that purpose *within thirty days from the date of the service of the notice*, or (b) vacate the land on or before the fifteenth of May next following.

On the application of the landlord to the talukdar or officer authorised to serve such notices, the notice shall be served by such officer on or before the fifteenth day of November, and the landlord shall pay the costs of service.

The notice shall, if practicable, be served personally on the tenant. But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the village *chaurah* or other conspicuous place in the village wherein the land is situate.

[Act XIX, 1868, section 37.]

40. A tenant on whom a notice has been served under section 39 may contest his liability to be ejected from the land specified therein on any of the following grounds:—

- 1st—That he holds a lease or an agreement, or a decree of Court, under the terms of which he is not liable to such ejectment.
- 2nd—That he has a right of occupancy in the land.
- 3rd—If he be a tenant not having a right of occupancy, that notice of ejectment has not been served upon him in manner provided by section 39.
- 4th—That seven years have not elapsed since the date of the last change of rent or alteration of the area of the holding.
- 5th—That he is entitled to compensation for disturbance, and that the landlord has not deposited the sum required by this Act.

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(Chapter V.—Ejection.—Sections 40A-43.)

Explanation.—A *thikādar* is not entitled to contest a notice of ejection on any ground other than that he holds a lease under the terms of which he is not liable to ejection.

40 (A). If the tenant has any claim for compensation for improvements effected by him on the holding, he shall file with his plaint a statement of the claim and of the grounds on which it is based.

40 (B). If the Court finds the objections of the tenant to be invalid, it shall determine the amount of the compensation, if any, due for improvements, and shall declare the ejection to be conditional on payment of that amount to the Court.

41. If the tenant on whom such notice of ejection has been served fails, within thirty days from the date of the service, to institute a suit to contest his liability to be ejected, his tenancy of the land in respect of which the notice has been served shall be held to cease on the fifteenth of May next following, unless, after the service, the landlord has expressly authorised him to continue to occupy the land.

[Act XIX, 1863, section 41.]

42. If no such suit be brought, or if a suit has been brought and discontinued, and the landlord requires the assistance of the Court to eject any person whose tenancy is alleged to have ceased [], he may apply for such assistance, and, if the Court is satisfied that notice of ejection was duly served on such person, and that any compensation for improvements and disturbance, which may be due to the tenant, has been paid into Court or to the proper officer, it shall give such assistance accordingly :

[Ditto, section 45.]

[under the provisions of section 41]

Provided that nothing done by the Court under the previous part of this section shall affect the right of any tenant to institute a suit against his landlord on account of illegal ejection and to recover compensation for the same.

43. If a landlord desires to eject a tenant, not being a tenant with a right of occupancy, against whom a decree for arrears has been passed and remains unsatisfied, he may, after the first of April of the year in which the arrears accrued, apply to the Deputy Commissioner to eject the tenant. The Deputy Commissioner shall, on receiving the application, cause a notice to be served on the tenant, stating the amount due under the decree and informing him that, if he does not pay that amount into Court within fifteen days from the receipt of the notice, he will be ejected from his holding.

[Act XIX, 1881, section 35.]

If the amount be not so paid, the Deputy

*The Oudh Rent Bill.**(Chapter V.—Ejectment.—Sections 43A-46 A.)*

Commissioner shall, unless good cause be shown to the contrary, eject the tenant,

[Act VIII, 1885, section 25.]

43 (A). *A decree for ejectment may be passed against a tenant on the ground—*

Decree for ejectment.

(a) *that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of his tenancy ; or,*

(b) *where the rent is payable in kind, that his cultivation has diminished to a point which by the custom of the locality involves the forfeiture of the holding.*

The tenant shall continue liable for the rent of the land until the decree is executed.

General.

[except a sub-lessor]

[Act XIX, 1868, section 38]

[unless, while his rent is in arrear, he has failed to cultivate the land in his possession in accordance with the terms on which he holds it]

[Act XIX, 1868, section 39]

44. No tenant [] shall in any case, whether in execution of a decree or otherwise, be ejected from the land in his occupancy, except between the first day of April and the fifteenth day of June in any year after the passing of this Act [].

Time of ejectment of tenant.

45. A *thikadár* liable to be ejected under the provisions of this Act may be ejected at any time during his tenancy.

Time of ejectment of thikadár.

46. Any tenant ejected in accordance with the provisions of this Act shall be entitled to receive from the landlord the value of any growing crops or other ungathered products of the earth belonging to such tenant, and being on the land at the time of his ejectment :

Compensation to ejected tenant for growing crops.

Provided that, if the land shall have been sown or planted by the tenant after the service on him of the notice mentioned in section 39, he shall not be so entitled, unless, after such service, the landlord has expressly authorised him to continue to occupy the land.

Sir Lands.

46 (A). *The rights conferred upon tenants by sections 21, 35, 35(A), 36, 36(L), 36(F), 36(G), 36(I) and 38(A) shall not accrue to cultivators of any of the following lands :—*

Sir lands.

(a) *Land which for the seven years immediately preceding the passing of this Act has been continuously dealt with as sir in the distribution of proprietary profits and charges. This condition shall be presumed, until the contrary is proved, where land was recorded as sir at settlement and has been continuously so recorded since :*

(b) *Land which for the seven years immediately preceding the passing of this Act has been continuously cultivated*

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by the proprietor himself or by his servants or by hired labour.

46 (B). *A person holding land as a thikadār or mortgagee shall not, while so holding, acquire any of the rights enumerated in the preceding section in any of the land comprised in his thika or mortgage.*

Explanation.—A person having such rights in land does not lose them by subsequently taking a thika or mortgage in which his holding is comprised.

CHAPTER VI.

DISTRESS FOR ARREARS OF RENT.

47. When an arrear of rent is due from any tenant, the landlord may recover of arrears of rent by distress. *distrain the produce of the land in respect of which the arrear is due, subject to the rules contained in the following sections:*

Provided that, when a tenant has given security for the payment of his rent, the produce of the land in respect of which such rent is payable shall not be liable to distress so long as the security is in force.

48. Distress shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable in the last preceding year for the land in respect of which the arrear is due, unless the tenant has agreed in writing to pay such excess, or unless he has been declared to be liable for the same by a decree of Court.

49. The power of distress vested by section 47 in landlords may be exercised by managers under the Court of Wards, managing agents and tahsildars of estates held under kham management, and other persons lawfully entrusted with the charge of land, and also by the agents employed by landlords or any such persons as aforesaid in the collection of rent, or expressly authorised by power-of-attorney to distress:

Provided that, if any such agent, purporting to act in the exercise of the said power, commits an act which, under the provisions of this chapter, is illegal, the person employing such agent shall be liable, as well as the agent, to be sued for compensation for any injury caused by such act.

50. Any person empowered to distress property under section 47 or section 49 may employ a servant or other person to make the distress; but in every such case he shall give to such servant or person a written authority for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

*The Oudh Rent Bill.**(Chapter VI.—Distress for Arrears of Rent.—Sections 51-51.)*

51. Standing crops and other ungathered pro-
 Crops liable to dis- ducts of the earth, and crops
 tress. or other products when
 reaped or gathered and deposited in any threshing-
 floor or place for treading out grain or the like,
 whether in the field or within a homestead, may
 be distrained by persons invested with powers of
 distress under this Act.

But no such crops or products, other than the
 produce of the land in respect of which an arrear
 of rent is due, or of land held under the same
 agreement as the land in respect of which the
 arrear is due, and no grain or other produce
 after it has been stored by the cultivator, and no
 other property whatsoever, shall be liable to dis-
 tress under this Act.

52. Before or at the time when any distress is
 Demand of arrear be. made under this Act, the
 fore or at time of dis- distrainer shall cause the
 tress. defaulter to be served with
 a written demand for the amount of the arrear,
 together with an account exhibiting the grounds
 on which the demand is made.

The demand and account shall, if practicable,
 be served personally on the defaulter, but if he
 cannot be found, they shall be affixed at his
 usual place of residence, and shall thereupon be
 deemed to be duly served upon him.

53. Unless the amount of the demand is
 Value of distress. immediately paid or tender-
 ed, the distrainer may dis-
 train property as aforesaid of value as nearly
 as may be equal to the amount of the arrear
 together with the costs of the dis-
 tress; and shall prepare a
 list or description of the said property, and
 deliver a copy of the same to the owner, or if he
 be absent, affix it at his usual place of residence.

54. Standing crops and other ungathered pro-
 Reaping and storing. ducts of the earth may,
 standing crops when notwithstanding the dis-
 tress, be reaped or gathered
 by the tenant, and may be stored in such granar-
 ies or other places as are commonly used by him
 for the purpose.

If the tenant neglect to do so, the distrainer
 may cause the seed or products to be reaped
 or gathered, and in such case shall store the same
 either in such granaries or other places as afore-
 said, or in some other convenient place in the
 neighbourhood.

In either case the distrained property shall be
 placed in the charge of some proper person ap-
 pointed by the distrainer for the purpose.

If the crops or products do not, from their
 nature, admit of being stored, the distress shall be
 made (if at all) at least twenty days before the
 time when the crops or products or any part
 thereof would ordinarily be fit for cutting or
 gathering.

*The Oudh Rent Bill.**(Chapter VI.—Distress from Arrears of Rent.—Sections 55-59.)*

55. If a distrainer is opposed or apprehends resistance, and desires to obtain the assistance of a public officer, he may apply to the Court, and the Court may, if it think necessary, depute an officer to assist the distrainer in making the distress.

Application by distrainer in case of resistance.

56. If at any time after property has been distrained as aforesaid, and before the sale thereof as hereinafter provided, the owner tender payment of the arrear demanded and of the costs of the distress, the distrainer shall receive the same and give a receipt therefor, and shall forthwith withdraw the distress.

Withdrawal of distress on tender of arrear and costs.

57. Within five days from the time of storing any distrained crops or products, or, if such crops or products do not from their nature admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the proper officer authorized to sell property in satisfaction of decrees of the Court within whose jurisdiction the distrained property is situate.

Application for sale.

58. The application shall be in writing: it shall contain a list or description of the property distrained, and it shall state the name of the defaulter, his place of residence, the amount due and the place in which the distrained property is deposited.

Form of application.

Together with the application, the distrainer shall deliver to the proper officer the sum payable for the service of a notice upon the defaulter as hereinafter provided.

59. Immediately on receipt of the application, the proper officer shall send a copy of it to the Court, and shall serve a notice in the form contained in Schedule C hereto annexed, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or within fifteen days from the receipt of the notice to institute a suit to contest the demand.

Procedure on receipt of application.

The officer shall at the same time send to the Court, for the purpose of being put up at the court-house, a proclamation fixing a day for the sale of the distrained property, not less than twenty days from the date of the proclamation; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain a description of the property, and shall specify the demand for which it is sold, and the place where the sale is to be held.

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60. If a suit is instituted in pursuance of the aforesaid notice, the Court shall send to the proper officer, or, if so requested by the owner of the distrained property, shall deliver to him, a certificate of the institution of the suit.

On such certificate being received by, or presented to, the proper officer, he shall suspend proceedings in regard to the sale:

Provided that, if in his opinion the property distrained is such that delay will cause damage thereto, he may direct its immediate sale.

61. Any person whose property has been distrained as aforesaid may institute a suit to contest the distrainer's demand at any time before the expiration of the fifteen days mentioned in section 59.

When such suit is instituted, the Court shall proceed in the manner prescribed in section 60.

If application for the sale of the property is afterwards made to the proper officer, he shall send a copy of the application to the Court, and suspend further proceedings pending the decision of the Court.

62. The person whose property has been distrained, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with one or more sureties or sureties, for an amount not less than double the value of the property so distrained, binding himself to pay whatever sum may be adjudged to be due from him, with costs of suit.

When such bond is executed, the Court shall give to the owner of the property a certificate to that effect, or, if he so requests, shall serve the distrainer with notice of the same.

Upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Court, the property shall be released from distress.

63. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the proper officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as are allowed by him, be discharged in full, proceed, with the sanction of the Court, to sell the property, or such part thereof as may be necessary.

64. The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bázár or other place of public resort, if the

*The Oudh Rent Bill.**(Chapter VI.—Distress for Arrears of Rent.—Sections 65-69.)*

proper officer thinks that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the officer holding the sale thinks advisable; and if the demand, with the costs of distress and sale, be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

65. If, on the property being put up for sale, a price which the officer holding the sale shall think fair be not offered, and if the owner of the property or his recognized agent apply to have the sale postponed until the next day, or (if a market be held at the place of sale) until the next market-day, the sale shall be postponed until such day, and shall be then completed at whatever price may be offered.

66. The price of every lot shall be paid in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks fit; and in default of such payment the property shall be put up again and re-sold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate stating the property purchased by him and the price paid therefor.

67. The officer holding the sale shall deduct from the proceeds one anna for every rupee and fraction of a rupee on account of the expenses attending the sale.

He shall then pay to the distrainer the expenses incurred by him on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 59, to such amount as, after examination of the statement of expenses furnished by the distrainer, the officer thinks proper to allow.

The remainder shall be applied to the discharge of the arrear for which the distress was made, and the surplus (if any) shall be delivered to the person whose property has been sold.

68. Officers holding sales under this Act, and all persons employed by, or subordinate to, such officers, are forbidden to purchase, either directly or indirectly, property sold by such officers.

69. The officer mentioned in section 57 shall bring to the notice of the Court any illegal act which shall come to his knowledge as having been committed by any person in making a distress under this Act.

If in any case, on proceeding to hold a sale under this Act, such officer finds that the owner has not received due notice of the distress and

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intended sale, he shall postpone the sale and report the case to the Court, and the Court shall direct the issue of another notice and proclamation of sale under section 59, or make such other order as it thinks proper.

70. When such officer has gone to any place for the purpose of holding a sale, and no sale takes place, either for the reason stated in section 69, or because the distrainer's demand has been previously satisfied, the said charge on account of expenses attending the sale shall be leviable by the officer, and shall be calculated on the value of the distrained property, as estimated by him, unless the distrainer's demand has been satisfied before the day fixed for the sale and notice of such satisfaction has been given by him to the officer.

If the distrainer's demand be not satisfied until the day fixed for the sale, the charge shall be paid by the owner of the property, and may be recovered by sale of such portion thereof as may be necessary.

In every other case the charge shall be paid by the distrainer, and may be recovered under the warrant of the Court by attachment and sale of his property :

Provided that in no case shall an amount exceeding ten rupees be recoverable under this section.

71. When a suit has been instituted to contest a distrainer's demand, and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Court shall issue an order to the proper officer authorizing the sale of the property.

On the application of the distrainer (which shall be made within five days from the receipt of such order by such officer), such officer shall publish a second proclamation in the manner prescribed in section 59, fixing another day for the sale of the distrained property, not less than five nor more than ten days from the date of the proclamation ; and, unless the amount adjudged to be due with cost of distress be paid immediately, shall proceed to sell the property in the manner hereinbefore provided.

72. In all suits instituted to contest a distrainer's demand the defendant must prove the arrear in the same manner as if he had himself brought a suit for the amount under the foregoing provisions of this Act.

If the demand or any part thereof is found to be due, the Court shall make a decree for the amount in favour of the distrainer.

Such amount may be recovered by sale of the distrained property as provided in section 71,

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and if the distress has not been withdrawn, and if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter, or, if the distrained property have been released on security, by execution of the decree against the person and property of the defaulter, and, if his surety has been made a party to the suit, against the person and property of such surety.

73. If the distress is adjudged to be vexatious or groundless, the Court, besides directing the release of the distrained property, may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

74. If any person claims, as his own, property which has been distrained, claiming property distrained for arrears of rent alleged to be due from any other person, the claimant may institute a suit against the distrainer and such other person to try the right to the property, in the same manner, and under the same rules as to the time of instituting the suit and as to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

75. When any such suit is instituted, the property may be released upon security for its value being given to the satisfaction of the Court.

If the claim is dismissed, the Court shall make an order in favour of the distrainer for the sale of the property, or the recovery of its value, as the case may be.

If the claim is upheld, the Court shall order the release of the distrained property, and may award such compensation as it thinks fit, not exceeding twice the value of the property distrained.

76. No claim to any produce of land liable to distress under this Act, and found at the time of the distress in the possession of a defaulting tenant, whether such claim be in respect of a previous sale, mortgage or otherwise, shall bar the landlord's prior claim, nor shall any attachment in execution of a decree of any Civil Court prevail against such claim.

77. Whenever property has been distrained for an arrear of rent, and a stranger claiming to be landlord and to have right of distress to be made a party, suit has been instituted to contest the demand, and the right to distrain for such

*The Oudh Rent Bill.**(Chapter VI.—Distress for Arrears of Rent.—Sections 78-80.)*

arrear is claimed by or on behalf of any person other than the distrainer, on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made by a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the commencement of the suit shall be inquired into, and the suit shall be decided according to the result of such inquiry :

Provided that the decision of the Court shall not affect the right of any person having a title to the rent of land to establish such title in a Court of competent jurisdiction, by suit instituted within one year from the date of the decision.

78. Any person whose property has been distrained for the recovery of a demand not justly due or of a demand due or alleged to be due from some other person, and who is prevented by any sufficient cause from bringing a suit to contest the demand or try the right to the property, as the case may be, within the period allowed by sections 59 and 71, and whose property is in consequence brought to sale, may institute a suit to recover compensation for any injury which he has sustained from the distress or sale.

79. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrains or sells any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act,

or if any distrained property is lost, damaged or destroyed, by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof,

or if the distress is not immediately withdrawn when any provision of this Act requires such withdrawal,

the owner of the property may institute a suit to recover compensation for any injury which he has thereby sustained.

80. If any person not empowered by this Act to distrain or sell, nor duly authorized for that purpose to be under this Act, by a person so empowered, purports to distrain or sell any property under this Act, the owner of such property may institute a suit to recover compensation from the person so distraining or selling for any injury which the plaintiff has sustained from the distress or sale.

Such suit shall not affect the defendant's liability to be prosecuted under any law for the time being in force.

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Sections 81-83.)*

81. If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any distrained property, the Court, upon complaint being made within ten days from the date of such resistance or removal shall cause the person accused to be arrested and brought before the Court with all convenient speed, and the Court shall proceed forthwith to try the case.

If the case cannot be at once heard and determined, the Court may, if it think fit, require the party arrested to give security for his person, whenever the same may be required, and, in default of such security, may commit him to the civil jail until the case is tried.

82. If such resistance or removal of property be proved, the Court may order the offender to pay a fine not exceeding one hundred rupees, together with all costs and expenses incurred in the case or in making the distress, and, in default of payment, may order him to be imprisoned in the civil jail until payment is made: Provided that no such imprisonment shall continue for more than six months.

CHAPTER VII.

JURISDICTION OF THE COURTS.

Suits cognizable.

83. *No Courts other than Courts of Revenue* Suits cognizable in Oudh shall take cognizance of the following descriptions of suits, and such suits shall be heard and determined in the said Courts of Revenue in the manner provided in this Act, and not otherwise:—

A.—Suits by a Landlord.

(1).—For the delivery by a tenant of the contents put of a *puti* under restriction;

(2).—For arrears of rent;

(3).—For the enforcement of the rent of a tenant [],

(4).—For the adjustment of a tenant [];

(5).—Suits by landlords against *putwaris* or agents employed by landlords in the management of land or the collection of revenue or rent, or against the servants of such *putwaris* or agents for money received or accounts kept by such *putwaris* or agents in the course of such employment, or for property in their possession, or for the rendering and settlement of accounts.

[having a right of occupancy]

[or for cancelling any lease on account of the non-payment of arrears of rent or on account of a breach of the conditions of such lease]

B.—Suits by an Under-Proprietor or a Tenant.

(6).—For establishing a right of occupancy;

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Section 83.)*

(7)—For the delivery by a landlord of a *patta*;

(8)—For contesting a notice of ejectment;

(9)—For compensation—

on account of illegal enforcement of payment of rent, or of any sum in excess of rent, due, or on account of the refusal of receipts or acknowledgments for rent paid or tendered,

or on account of illegal ejectment,

or on account of the value of standing crops under section 46,

or on account of loss arising for the making of improvements under section 26;

(10.)—For the recovery of the occupancy of any land of which an under-proprietor or tenant has been dispossessed or from which he has been illegally ejected by the landlord;

(11.)—For contesting the exercise of the power of distraint conferred on landlords and others by this Act, or any acts purporting to be done in exercise of the said power, or for compensation for illegal distraint;

(12.)—For abatement for rent in accordance with the provisions of section 19;

(13.)—For the recovery of compensation for improvements in accordance with the provisions of section 22.

C.—Suits regarding the Division or Appraisal of Produce.

(14.)—Suits under section 31, regarding the division, estimate or appraisal of the produce of land.

D.—Suits by and against Lambardárs, Co-sharers and Musfidárs.

(15.)—Suits by a sharer against a lambardár or co-sharer for share of the profits of an estate or any part thereof, or for the rendering and settlement of accounts in respect of such profits;

(16.)—Suits by a lambardár or pattidár who is entitled to collect the rents of the *patti*, for arrears of revenue or rent payable through him by the co-sharers whom he represents, and by a lambardár for village-expenses and other dues for which the co-sharers may be responsible to him, or against a joint lambardár for compensation for revenue or rent paid by such lambardár on account of such joint lambardar;

(17.)—Suits by co-sharers against lambardárs, or by proprietors or lessees against musfidárs or assignees of revenue, for compensation on account of exaction in excess of revenue or rent, or on account of the refusal of receipts or acknowledgments for revenue or rent paid or tendered;

(18.)—Suits by musfidárs or assignees of revenue for arrears of revenue.

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Sections 84-91.)**Grades of Courts.*

Grades of Courts for the purposes of this Act. **84.** For the purposes of this Act, the Courts of Revenue shall consist of six grades of Courts, namely—

- (1.)—The Court of the Assistant Collector of the second class;
- (2.)—The Court of the Assistant Collector of the first class;
- (3.)—The Court of the Deputy Collector;
- (4.)—The Court of the Collector;
- (5.)—The Court of the Commissioner;
- (6.)—The Court of the Judicial Commissioner.

85. The Chief Commissioner of Oudh shall have power to declare to which of the first three grades any Assistant Commissioner shall belong, and to invest any Tahsildar with the powers of any of the same grades.

Deputy Commissioner to have Collector's powers. **86.** The Deputy Commissioner shall exercise the powers of a Collector under this Act.

87. The Chief Commissioner of Oudh may invest any officer employed in making or revising settlements of revenue with all or any of the powers of a Collector, or Deputy Collector, or Assistant Collector, under this Act.

88. The Court of the Assistant Collector of the second class shall have power to try and determine suits of the descriptions mentioned in clauses (1), (2), (7), (12), (15), (16), (17) and (18) of section 83, of which the subject-matter does not exceed one hundred rupees in value or amount.

89. The Court of the Assistant Collector of the first class shall have power to try and determine suits of the descriptions referred to in the last preceding section, of which the subject-matter does not exceed five hundred rupees in value or amount.

90. The Court of the Deputy Collector shall have power to try and determine suits of every description of which the subject-matter does not exceed five thousand rupees in value or amount.

91. The Court of the Collector shall have power to try and determine suits of every description and of any amount, and to hear appeals from the decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure as applied by this Act) from the

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Sections 92-95.)*

orders of the Assistant Collectors, and, in suits under clauses (2), (5), (9), (11), (14), (15), (16), (17) and (18) of section 83, from such decisions and orders of the Deputy Collectors.

Whenever the state of the public business requires it, the Chief Commissioner may invest any Deputy Collector with the powers of a Collector for the trial and determination of suits and appeals under this Act, other than appeals from the decisions of such Deputy Collector, and with the powers of a Deputy Commissioner to hear applications under sections 24 and 43, and may invest any Collector with all or any of the powers of a Commissioner under this Act.

92. The Court of the Commissioner shall have Jurisdiction of Commissioner. power to hear and determine appeals from decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Collectors and Deputy Collectors, except as otherwise provided in sections 91 and 95 [and 102]. XIV of 1882.

93. The Court of the Judicial Commissioner shall have power to hear and determine appeals from the decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioners, and also second appeals, as provided in the said Code, from the decisions passed in first appeal by the Collectors and by the Commissioners. XIV of 1882.

Appeals.

94. The memorandum of appeal, prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, shall be presented to the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause, to the satisfaction of such Court, for not having presented the memorandum within such period, that is to say, thirty days if the appeal lie to the Collector, six weeks if the appeal lie to the Commissioner, and ninety days if the appeal lie to the Judicial Commissioner. XIV of 1882.

The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made.

Second appeals shall be presented in the Court of the Judicial Commissioner within the period hereinafore fixed for the presentation of first appeals.

95. In suits under clauses (2), (5), (9), (11), (11), (15), (16), (17) and (18) of section 83, and in appeals from decisions in such suits tried and decided by a Commissioner or Col-
No appeals, except in certain cases, from Collector's decrees for money below one hundred rupees.

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Sections 96-99.)*

lector, if the amount sued for does not exceed one hundred rupees, the judgment shall be final, except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a tenant, or any question relating to a title to land or to some interest in land, as between parties having conflicting claims thereto, has been determined by the judgment.

In such case the judgment shall be open to appeal in the manner provided in this Act.

Distribution of Business.

96. The Deputy Commissioner may direct the Deputy Commissioner business in the Courts subordinate to him, whether or not they hold their sittings in the same place, to be distributed among such Courts in such way as he shall think fit.

Transfer of Suits and Appeals.

97. The Commissioner or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself, or refer it for trial to any other such Court competent to try the same.

The Commissioner may also withdraw any appeal instituted in the Court of any Collector subordinate to him, and try the appeal himself, or refer it for trial to the Court of any other Collector in his Division.

98. The Judicial Commissioner may order that any suit or appeal which shall be instituted in or presented to any Court subordinate to him shall be transferred to any other such Court competent to try or hear the subject-matter of the same.

Miscellaneous.

99. In the performance of their duties under this Act, the Collectors shall be subject to the direction and control of the Commissioners and of the Chief Commissioner; and the Deputy Collectors and Assistant Collectors shall be subject to the direction and control of the Deputy Commissioners to whom they are respectively subordinate:

Provided that nothing in this section shall empower the Chief Commissioner or any Commissioner or Deputy Commissioner to interfere in any way not authorized by this Act with any decision or order in a suit.

*The Oudh Rent Bill.**(Chapter VIII.—Limitation of Suits.—Sections 100-106.)*

100. All suits which, under the provisions of this Act, may be brought by or against landlords, may be brought by or against managing agents or talukdars of estates held under kham management, whether such estates are the property of Government or not.

101. No sharer in a joint estate, under-pr priority or other tenure, in which a division of land has not been made among the sharers, shall exercise any of the powers conferred by this Act in regard to the recovery of arrears of rent, enhancement of rent, ejectment of tenants, or distress, otherwise than through a manager authorized to collect the rents on behalf of all the sharers.

In pattidar estates or tenures such powers shall be exercised only through a lambardar, or through the pattidar who is entitled to collect the rents of the patta.

102. Any person in possession of land occupied by him without consent of the landlord shall be liable for the rent of such land at the rate payable in the previous year, or, if no rent was payable in the previous year, at such rate as the Court may determine to be fair and equitable, and he shall not in respect of such land have any of the statutory privileges conferred by this Act.

103. The Courts may sit for the hearing and determining suits and appeals, and for disposing of other business under this Act, in any place within the local limits of their respective jurisdictions:

Provided that every hearing and decision shall be in open Court, and that the parties to the suit, or their authorized agents, shall have had due notice to attend at such place.

CHAPTER VIII.

LIMITATION OF SUITS.

104. Except as herein otherwise provided, and subject to the provisions as to legal disability contained in any law for the limitation of suits for the time being in force in Oudh, all suits under this Act shall be instituted within one year from the date of the accruing of the cause of action.

105. Suits for the delivery of pattas or the counterparts of pattas may be instituted at any time during the tenancy.

106. Suits for the recovery of arrears of rent of revenue or of a share of profits shall, except in the case mentioned in

*The Oudh Rent Bill.**(Chapter IX.—Procedure.—Sections 107-110.)*

section 16, be instituted within three years from the date on which the arrear or share of profit claimed shall have become due.

107. Suits for the recovery of money in the hands of an agent, or for the settlement of accounts or delivery of papers by an agent, may be brought at any time during the continuance of the agency or within one year after its determination, or, in the case of claims legally exigible at the date of the passing of this Act, within one year after such date.

Suits against agents for money, or delivery of accounts or papers.

108. Suits regarding distress under section 74, 75, 79 or 80, and suits regarding the division, estimate or apportionment of the produce of land, shall be commenced within three months from the date of the accruing of the cause of action.

Suits regarding distress, division of produce, &c.

CHAPTER IX.

PROCEDURE.

of 1882 **109.** The provisions of the Code of Civil Procedure as in force in Oudh shall, so far as they are not inconsistent with the provisions herein contained, apply to all suits, appeals and proceedings under this Act.

Civil Procedure Code to be the procedure under this Act.

110. In addition to the particulars required by section 50 of the said Code to be specified in the plaint, the plaint shall contain the following particulars:—

Particulars to be added to plaint.

1st.—The name of the village or estate, and of the parganá in which the land to which the suit relates is situate;

2nd.—If the suit be for recovery of an arrear of rent, or for the enhancement or abatement of rent, or for the ejectment of a tenant, or for contesting a notice of enhancement of rent, or for contesting a notice for the ejectment of a tenant or for the recovery of the occupancy or possession of any land, the plaint shall specify the extent, situation and designation of the land to which the suit relates and, where fields have been marked in a Government survey, the number (if it be possible to give it) of each field;

3rd.—If the suit be for recovery of an arrear of rent or revenue, the plaint shall specify the yearly rent or revenue of the land, the amount (if any) received on account of the year or years for which the claim is made, the amount in arrear and the time in respect of which it is alleged to be due;

4th.—If the suit be for the delivery of a *patta* or the counterpart of a *patta*, the plaint shall specify all the particulars mentioned in section 7.

*The Oudh Rent Bill.**(Chapter IX.—Procedure.—Sections 111-117)*

111. When in any suit between a landlord and an under-proprietor or tenant the right to receive the rent of the land is claimed by a third person, on the ground that he, or a person through whom he claims, has actually and in good faith received and enjoyed such rent up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him or the person through whom he claims shall be inquired into, and the suit shall be decided according to the result of such inquiry :

Provided always that the decision of the Court shall not affect the right of any party having a legal right to the rent of such land to establish his title thereto in a Court of competent jurisdiction.

112. In all suits under *clauses (1), (2), (7), (10) and (11) of section 83 of this Act*, the summons to the defendant shall be for the final disposal of the suit.

113. In a suit to recover an arrear of rent, no set off shall be allowed against the claim, except such amount as may be due to the defendant on an unexecuted decree under this Act against the plaintiff.

114. In any suit under this Act involving a claim to money, the defendant may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the plaintiff's claim, together with the costs incurred by the plaintiff up to the time of such deposit.

Notice of the deposit shall be given to the plaintiff, and the amount deposited shall be paid to him on his application.

No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

115. In any case in which the defendant deposits less than the amount claimed by the plaintiff, nothing in section 114 shall bar the plaintiff from proceeding in the suit for the recovery of the balance.

[116. If a tenant not having a right of occupancy institute a suit against a landlord for the delivery of a lease, or a landlord institute a suit against a tenant not having a right of occupancy for the delivery of the counterpart of a lease, and the parties do not agree in respect of the particulars which such lease or counterpart is to contain, the Court shall dismiss the suit, unless evidence in writing is produced which shall satisfy the Court that an agreement has been entered into between the parties in accordance with which such lease or counterpart ought to be delivered.]

117. The local inquiry described in section 312 of the Code of Civil Procedure may also, if he think fit, be made by the Collector in person or other officer presiding in the Court, and the provisions of the said Code regarding local inquiries shall apply to such inquiries made by such Collector or other officer.

In such cases the Collector or other officer as aforesaid, after completing the inquiry, shall

*The Oudh Rent Bill.**(Chapter IX.—Procedure.—Sections 118-123.)*

record on the proceedings such observations as he thinks fit, and the clerk of the court so recorded shall be received as evidence in the suit.

As to Decree.

118. No process of execution shall be issued Time within which on a decree under this Act execution may be had. *When the application for the issue of such process is made after the lapse of three years from the date of such decree, unless the decree be for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the law in force as to the period allowed for the execution of decrees of the Civil Courts.*

119. When a decree for money is made in any Immediate execution suit under this Act, the of decree Court may, on the oral application of the party in whose favour the decree is passed, direct immediate execution thereof in the manner described in section 256 of the *Code of Civil Procedure*.

XIV of 1882.

120. When a decree in favour of the plaintiff Decree for enhance- is made in a suit for an en- ment to take date from the date of decree, the Court shall declare the date from which such enhance- ment shall take effect.

121. If the decree be for the delivery of Enforcement of decrees—property or realty, it may be enforced by the imprisonment of the party against whom the decree is passed, or by the attachment of his property, or by both imprisonment and attachment.

The imprisonment and attachment may be continued until he complies with the terms of the decree:

Provided that no person shall be imprisoned under this section for a longer period than six months.

122. A decree for the delivery of a *patta* or of Decree for delivery of the counterpart of a *patta* counterpart to specify all the parties to the *patta* shall specify all the parties to the *patta*, and each of the parties shall comply with the provisions of this Act as to the Court seem fit.

123. If the decree be for the delivery of a Court after decree—*patta* or the counterpart of a *patta*, and the party or counterpart, in case of refusal to deliver such *patta* or counterpart neglects or refuses so to do, the Court may grant a *patta* or counterpart in conformity with the terms of the decree, and such *patta* or counterpart shall have the same effect as if delivered by the party against whom the decree was passed.

*The Oudh Rent Bill.**(Chapter X.—General.—Sections 121-129.)*

124. If the decree be for money, no process of execution to be first in execution shall issue made against moveable against the immoveable property of the judgment-debtor, other than attachment of such property, unless satisfaction of the decree cannot be obtained against his moveable property.

125. If the decree be for an arrear of rent due in respect of an under-proprietary right in such right, the interest of the judgment-debtor in such right may, subject to the provisions of this Act, be sold in execution of the decree.

[Provided that no such sale shall be allowed unless it appear to the Deputy Commissioner that satisfaction of the decree cannot be made in the manner referred to in sections 243 and 244 of the Code of Civil Procedure.

If it appear to the Court that such satisfaction can be made, the Court may exercise the powers given to it by the said section 243, although no application has been made by the judgment-debtor.

The Deputy Commissioner may be appointed manager under the same section. When he has been so appointed, he may exercise, for the satisfaction of the decree against the judgment-debtor, all the powers which, under any law in force in Oudh, he might have exercised for the recovery of an arrear of revenue due by such judgment-debtor to the Government.]

126. No beneficial lease or other incumbrance created by any under-proprietor shall be valid, in the event of the sale of his rights and interests in execution of a decree for arrears of rent, unless such incumbrance has been registered, under any rules or law for the time being in force in Oudh, within four months after the creation thereof, and not less than thirty days before the date of attachment of such rights and interests.

127. When an under-proprietor creates any such incumbrance and fails to pay to the proprietor all rent payable by under-proprietor or any part of the rent subsequently accruing in respect of the land subject to the incumbrance, the incumbrancer shall be liable to pay to the proprietor the whole or such part as aforesaid of the said rent, unless the proprietor has agreed in writing to waive any claim which he might otherwise have made on the incumbrancer under this section.

128. When land is sold in execution of a decree for arrears of rent under this Act, and at execution thereof the land or any lot thereof has been knocked down to a stranger, any co-sharer, other than the judgment-debtor, may, before sunset on the day of sale, claim to take the land or lot, as the case may be, at the sum at which it was knocked down.

If the land be an under-proprietary tenure, a like claim may also be made by the proprietor.

Any claim made under this section shall be allowed: Provided that, if a claim to the same land or lot be made by a proprietor as well as by a co-sharer, the claim of the co-sharer shall be preferred: Provided also that no claim shall be allowed unless the claimant fulfil all the conditions of the sale binding on a purchaser.

CHAPTER X.

GENERAL.

129. The Local Government, on being satisfied that any estate is suffering from gross mismanagement to an extent which has,

*The Oudh Rent Bill.**(Schedule B.—Schedule C.—Schedule D.)*

SCHEDULE B.*

(See section 15.)

Court of the of . Dated the
day of 18 .

To *E.F.*, of , &c.

With reference to the within declaration, you are hereby informed that the sum of rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or your duly authorized agent on application. And take notice that if you have any further claim or demand whatsoever to make against the said *A. B.* in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

SCHEDULE C.

(See section 59.)

Office of , officer appointed to sell distrained property.

A. B.—*Distrainer.*

Whereas the said *A. B.* has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you hereby are required either to pay the said sum to the said *A. B.* or to institute a suit before the Court to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 188 .

SCHEDULE D.

(See section 131.)

* This is to be by endorsement on a copy of the declaration under Schedule A made by the person paying the money into Court.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill, which has been prepared by the Government of the North-Western Provinces and Oudh, is to secure to tenants in Oudh some protection against arbitrary eviction from their holdings and enhancement of their rents, and to place on a clear footing their right to make improvements on their holdings and to receive compensation for improvements so made. Under the law as it stands they are absolutely unprotected against enhancement and eviction, provided that the landlord observes certain easy formalities in raising rents or in issuing his notices of ejectment. Every field in a tenant's holding can be shifted on the close of each agricultural year at the will of his landlord, and there is no limit to the rise of rents.

The Census Statistics show that the pressure of the population on the land in Oudh is very great, being 170 to the square mile, and the large number of notices of ejectment annually issued and their steady increase from 23,600 in 1876 to 90,200 in 1882 afford reason for believing that they are used as instruments for the undue enhancement of rent. Enquiry has shown that this belief is not unfounded, and that the effect of the existing law on a population dependent mainly on agriculture for its subsistence must lead at no distant date to the deterioration of agricultural industry and the impoverishment and degradation of the bulk of the people.

It is not proposed to introduce a system of heritable occupancy-right acquired by prescription, such as prevails in the North-Western Provinces, but to accept contract as the basis on which transactions between landlord and tenant are to be regulated. The tenant, however, who has no other means of subsistence open to him, is no match for the landlord in a thickly populated agricultural province, and with a view to place the parties on more equal terms the Bill imposes the following restrictions on free contract between them.

Sitting tenants may hold the land they at present occupy at the rent now paid from the date of the last change in their rent or in the area of the holdings.

The enhancement of rent permissible at the expiry of each statutory period is to be limited to $6\frac{1}{4}$ per cent, or one anna in the rupee, on the current rental; the sitting tenant to have the equity of renewal at rent within that limit.

At the end of that period it is proposed to allow the landlord to enhance the rent of the sitting tenant to such sum as he and the tenant may agree upon within a limit of one anna in the rupee, or $6\frac{1}{4}$ per cent., on the rent previously paid.

At any time after the expiration of the statutory period a landlord who has not made terms with the sitting tenant may proceed either by notice of enhancement or by notice of ejectment at his discretion. If he proceeds by notice of enhancement the enhancement must be within the limit above given. If the tenant accepts, a new period begins. If the tenant refuses the proposed enhancement, the holding will become vacant, but no higher rent can be recovered from the next tenant than $6\frac{1}{4}$ per cent. above the old rent on the same holding. If the landlord proceeds by ejectment, leaving the tenant no option of re-entry, compensation for disturbance will be given up to one year's rent at the rate last paid, and the limitation of $6\frac{1}{4}$ per cent. will apply to the rent recoverable from the next tenant. In both cases tenants will be entitled to receive before dispossession any compensation due to them for improvements. The right of renewal is to be personal to the tenant in occupancy. On the death of a tenant in occupancy his heir will be entitled to hold on, on the same terms, to the expiration of the statutory period enjoyably by his predecessor, but must then, should the landlord so wish, vacate the holding on payment of the compensation for improvements found to be due to him.

These provisions are experimental, and power is therefore given to the Local Government from time to time, within periods of not less than seven years in any district or part of a district, to vary the limit of enhancement. Although there has been a considerable rise of prices in the past fifteen years, the rise may not continue at the same rate, and in that case the limit of $6\frac{1}{4}$ per cent. might be unfair to the tenant. In other cases the limitation might conceivably operate to the prejudice of the landlord.

The condition in the taluqdār's sanad—that he will promote the agricultural prosperity of his estate—is so vaguely worded as to leave the Government and the taluqdār alike uncertain as to the grounds on which Government should interfere between him and his tenantry. To put the matter beyond doubt power is given to Government to step in when it is satisfied that an estate is suffering from grave mismanagement, which has since the present year materially deteriorated the condition of the tenantry or diminished the area of the cultivation. The exercise of this power is subject to the previous sanction of the Governor General in Council, and the consequences of it are not the forfeiture of the estate, but an authoritative settlement of rents for ten years.

A similar power of settling rents was conferred in the Bengal Tenancy Act of 1885, the Local Government being authorized to interfere in the interests of public order or of the local welfare.

The detailed reasons for the alterations in the present Act necessary to carry out these proposals will be found in the annexed letter from the Local Government.

• *The 29th January, 1886.*

J. W. QUINTON.

No. 177 R. of 1886.
208-11

From

J. WOODBURN, Esq., SECRETARY TO GOVT, N.-W. P. AND OUDH,

IN THE OUDH REVENUE DEPARTMENT,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,

REVENUE AND AGRICULTURAL DEPARTMENT.

Dated Allahabad, the 15th January, 1886.

IN compliance with the request conveyed in your letter No. ⁸²²₁₃₋₃ (Revenue), dated the 9th ultimo, I am directed to submit a draft Bill to amend the Oudh Rent Law.

2. The general principles on which the Lieutenant-Governor and Chief Commissioner proposes to amend the Rent Law in Oudh are fully detailed and explained in the letters of this Government, No. 3939 of the 21st December, 1883, and No. 723 of the 12th May, 1884. In this letter submitting the draft Bill it seems sufficient to explain the reasons which have led to the various minor alterations of the present Rent Act.

3. The Bill takes the form of a revised edition of the existing Act. It is very probable that in phraseology and arrangement Act XIX of 1868 might be greatly improved; but it is only in Chapters IV and V that any material change is needed to give effect to the several proposals which have been made by the Lieutenant-Governor. And since the Act is well understood by and familiar to the Rent Courts and the people, it appears advisable to make no more alterations of it than are necessary to a clear and correct statement of the principles which are hereafter to govern the relations of landlord and tenant. But the opportunity has been taken to remove any difficulties that have been found by the Courts in interpreting certain other parts of the existing law. Additions to existing sections of the Act and all new sections are printed in italics; and any portions of existing sections which it is proposed to omit have been printed marginally in brackets.

4. I am now to proceed to a specific statement of the alterations made in the Act.

5. Section 2 repeals Act XIX of 1868, but maintains such notifications and rules made under it as are consistent with the new Act.

6. In section 3 a clause has been added to the definition of "rent," to make it quite clear that the word covers the rent of an under-proprietor who may not be personally in the use or occupation of the land in his tenure. A clause has been added to the definition of "tenant," to show what portions of the Act are applicable to a thikadár. A collector of rents should acquire none of the statutory privileges of a cultivating tenant, but is a tenant of the lessor for many purposes. A definition of "prescribed" has been inserted, which is taken from the Bengal Tenancy Act, 1885.

7. Section 4 is substituted for the corresponding section of the present Act. It is necessary to provide that no contract before or after the passing of the Act shall deprive a tenant of that protection against enhancement and ejectment which it is the special object of the new law to give. The Lieutenant-Governor has decided, after careful consideration of the point, not to recommend that the new law shall be so framed as to prohibit the execution of any special agreement which shall give a tenant a longer occupancy than the statutory period of seven years; but it is essential that agreements for any shorter term shall be barred, and I am to ask that this point may receive particular attention when the draft is examined. The proposal is that the occupation of a holding may be settled between landlord and tenant for a longer period than seven years by agreement, but that no contract shall defeat the statutory limit of enhancement. He is unwilling to interfere more than is absolutely necessary with any existing contracts; and where the terms of any pottas at present in force exclude the tenant from making improvements or claiming compensation for such as he may have already made, he would not set the contract aside. So far as the Lieutenant-Governor's information goes, the number of such contracts is not great, while in many such cases it may be presumed that the improvements will have been made upon special terms and conditions.

8. As regards clearing leases the Lieutenant-Governor is of opinion that they must be left to be arranged by landlord and tenant without interference by the State. The conditions under which they are taken vary considerably in different parts of the country, and are in fact effectively controlled by local circumstances and local custom. A proviso has accordingly been added to this section, the terms of which have been taken from the first proviso to section 178 of the Bengal Tenancy Act.

9. Section 5 (A), empowering a landlord to confer occupancy-rights, has been inserted in accordance with the wish of His Excellency the Governor General in Council, as conveyed in paragraph 15 of your letter No. 252R., dated 12th April, 1884.

10. In section 7 of the present Act the word "lease" is used for the written memorandum of the terms of a tenant's holding. It is scarcely applicable to the record of the terms of a holding conferred by Statute, and the Lieutenant-Governor would prefer to use the word "patta." It is again inconsistent with a statutory tenure that the record of it should contain any conditions except those imposed by the Statute, and the clause of the present section 7, authorising the entry in the patta of any special conditions of the lease, should be omitted.

11. Section 11 of the present Act authorises the rancelement of a lease by decree. It seems desirable that the whole of the provisions in regard to the determination of tenancies should be placed together, and this section, with the material alterations which will be subsequently explained, has been transferred to the chapter on ejectments as 43(A).

12. Section 20 of the Rent Act contains the provincial rule regarding the remission of rent, where it is proved to the Rent Court that from unforeseen calamity the tenant is unable to pay the entire demand. A proviso is attached to the section, which prevents a tenant with a five years' lease from claiming the benefit of this section. If this proviso were retained under the amended Act, which is to give all tenants a statutory occupancy for seven years, the effect would be to nullify the section altogether. The question is, therefore, whether the entire section should be struck out, whereby the Courts would lose their power of making allowances in rent-decrees for inevitable calamities, or whether the section shall stand without its proviso, whereby remissions of rent would cease to be in any way dependent on remissions of revenue. The latter course appears to the Lieutenant-Governor to be on the whole likely to be better for the interests of both landlord and tenant. If, as the Lieutenant-Governor believes, it is not expedient to withdraw from the Courts all power to take account of serious calamities in decreeing arrears of rent, in that case to provide that this power shall only be used when revenue has been remitted is to shackles it with an awkward and badly logical condition. The corresponding provisions of the rent law in the North-Western Provinces are contained in section 23 of Act XII of 1881 and the rules which have been prepared under it. When the crops have been injured by hail or drought in a village of the North-Western Provinces, the Collector has to apply for a remission of revenue before he can move in the matter of rents; and when that is obtained he enforces a remission of rents, equivalent to double the remission of revenue, by a process which is not always very well adjusted or duly proportioned. There is by law no similar rule in Oudh. Neither in the Revenue nor in the Rent Acts is any authority given to the Deputy Commissioner to carry on, distribute and enforce among the rents of the tenantry the remission which has been made in the landlord's revenue. It is true that under circular orders, issued administratively (of which an extract is given in the footnote), Deputy Commissioners have insisted on remissions of rent as a consequence of remissions of revenue; and the Lieutenant-Governor is not prepared at once to cancel those instructions. Nevertheless, when it comes to framing legal provisions, he would prefer to leave, at any rate experimentally, the adjustment of rent abatements between landlord and tenant as much as possible to the parties concerned, subject only to a Judge's discretion in extraordinary cases. The fact of the revenue remission is perfectly well known, and any tenant who is pressed to pay upon crops that have been seriously damaged has only to demand to the demand and let his claim to relaxation of the rent be considered by the Rent Court. So long as a tenant was liable to summary and arbitrary ejectment, undue pressure for the payment of rent could no doubt be made; but now that all tenants will be protected in the occupation of their holdings, the Lieutenant-Governor considers that with an appeal to the Rent Court, such as is given by section 20, they may be left to make their own arrangements with their landlords on such occasions as those contemplated by the section.

13. The proviso in section 20 is to some extent based on a distrust of the Courts, since they might exercise the power without sufficient cause, and hamper the landlord by remissions of rent for which he has received no compensating remission of revenue. The landlord, however, has always the remedy of appeal from a decree which he considers unfair, and if the case can be supposed possible of calamity so considerable as to justify large remissions of rent by the Court, although no previous remission of revenue had been given, no Deputy Commissioner would refuse to recommend a corresponding remission of revenue. There is again the risk that the Courts might force remissions of revenue by giving remissions of rent; but it must be assumed that the Courts will proceed with due care and upon sufficient evidence in remitting rents, while in Oudh they are likely always to keep in view the effect of their decrees upon the revenue. Moreover, a landlord is certain to contest any unfair reduction of his rent-demand; for a remission of revenue is never sufficient to compensate him, and his appeal is to the Commissioner or Deputy Commissioner, who is directly concerned with the collection of revenue. The Lieutenant-Governor recommends,

Any landlord who receives a remission of government revenue will be bound, in proportion to the extent of the remission, not to take, either through himself or through a lessee, and to restore if he has so taken, rent for the crop on account of which the remission is granted.—(From Circular Orders of 7th January, 1873.)

therefore, that the section be maintained with the omission of the proviso. The draft proposes to insert "materially" before "diminished", to indicate to the Courts that remission is not to be given for any but considerable loss.

14. Sections 35 and 36 of the present Act will be entirely superseded, and the reference to them in section 20 may be excised.

15. In section 21 (relinquishment of the holding) the last clause of the first sentence may be omitted. The Lieutenant-Governor wishes to make a distinction between relinquishment and abandonment. If tenants are to have considerable fixity of tenure, it is right that the landlord should have fair notice of relinquishment of holding, that he may make suitable arrangements for a new tenant. The date for notice of relinquishment has accordingly been antedated to the 15th of March, and at this time lease to another tenant can hardly have been given. It has been prescribed that the notice shall be in writing.

16. A section has been drafted in regard to abandonment [21 (B)], adopted from section 87 of the Bengal Tenancy Act.

17. In the sections on compensation for tenants' improvements considerable changes have been made. Section 22 of the present Act directs that the tenant shall be entitled to compensation for improvements whenever his rent is enhanced. This provision has, so far as the Lieutenant-Governor can ascertain, remained a dead letter. Under a system by which the adjustment of rent between landlord and tenant was left entirely to private contract, any enhancement of rent, so long as the tenant chose to stay, probably took into consideration the tenant's expenditure on the improvement of his holding. For the future at least no such provision is needed. The enhancement at the close of a statutory period of tenancy is a statutory enhancement, and will have effect whether or not the tenant has in the course of his expiring period of tenancy effected an improvement which has added to its value. The clauses in section 21, providing for compensation on enhancement, may therefore be left out.

18. The principle on which compensation is calculated under the present Act is solely that of the outlay of the tenant. The last sentence of the section bars right to compensation for improvements which were made more than thirty years before the date of claim, and in practice the procedure of the Courts is to make an estimate of the probable outlay, assume that the improvement will last for thirty years, and award to the tenant the sum which in that proportion represents its unexpired value. Thus, if a well is believed to have cost Rs. 300 ten years ago, the Court will award to the tenant Rs. 200. The principle is by no means a just one, for the landlord is exposed to great exaggerations by the tenant of his original outlay, and where the improvements are of old standing these statements are difficult to check. The Lieutenant-Governor considers that the principles laid down in section 83 of the Bengal Tenancy Act are not only in themselves more fair, but more simply and readily applied by the Courts, for it is seldom difficult in any village to ascertain the difference in letting value due to irrigation, and a well is the most common of all improvements in Oudh. A section has been accordingly introduced from the Bengal Act, section 25(A), and the references to outlay and the period of construction omitted from section 22.

19. It is the recognised custom of the province that a tenant cannot make an improvement of a permanent character without the consent of the landlord. So long as the tenant held on a yearly tenancy at the will of the landlord, this consent was obtained on terms which were sometimes very harsh. I am to refer, for example, to paragraph 17 of Colonel Friskine's report of the 1st June, 1885, page 277 of the second volume of papers on the condition of the Tenantry in Oudh. Now that the ordinary tenancy is for seven years, it is necessary for the agricultural progress of the country that the landlord's consent to improvements shall not be unreasonably withheld. It has accordingly been proposed in the Bill that the tenant shall have the right of applying to the Deputy Commissioner should the landlord refuse his consent, and that the Deputy Commissioner, after hearing the landlord's objections, shall pass such orders as may be fair and equitable.

20. On the other hand, it is right, when enhancement is otherwise equally restricted, that arrangement should be made for the assessment of a fair enhancement on holdings the produce of which has been increased by a landlord's improvement, and sections 26 and 36 (K) of the Bill have been drafted for the assistance of landlords in this matter.

21. Section 25 of the present Act is believed to have been of very little, if any, value. It has, however, been retained in section 25 (A) of the Bill in a shorter form, taken from the second clause of section 83 of the Bengal Tenancy Act.

22. Chapter III of the Oudh Act refers to commutation and payment of rents in kind. The Lieutenant-Governor proposes to omit the last two clauses of section 28 and the whole of section 29. The commutation of grain-rents is an exceedingly delicate and difficult business, while the prevailing opinion as to the advantages and disadvantages of commutation is apt to vary greatly, the authorities leaning sometimes on one side, sometimes on the other. It can hardly ever be expedient that the Government shall interpose, during the currency of a settlement, to determine officially a question of this nature, which is essentially connected with local circumstances and conditions of agriculture that are best adjusted by mutual consent; and, since, in fact, the authoritative commutation of rents

is hardly known in Oudh, the Lieutenant-Governor would prefer to leave it, by law, to private arrangement between landlord and tenant, except when a settlement of revenue is in progress. The transition from rents in kind to cash-rents is gradually spreading with the improvement of agriculture, and the process should be left to its natural and spontaneous course.

23. Chapter IV of the Act deals with the enhancement and settlement of rent. So far as it concerns the rent of tenants with a right of occupancy, they are left untouched. In the two sections, 35 and 36, of the Act are contained the whole of the provisions of the present law in regard to the rent of other tenants. To introduce the scheme sketched in paragraph 69 of my letter of 21st December, 1883, the sections numbered 35 to 36 (A) have been substituted for them in the Bill. They give every tenant a statutory right to occupy his holding for seven years, with a new period beginning from every change in rent or area by the landlord, and at the end of every period of tenancy they give him the preferential claim to continue in his holding at a rent that cannot be more than 5½ per cent. in excess of the previous rent, or, if he be ejected, to be paid compensation for disturbance. In short, the landlord cannot disturb the tenant for seven years, and if after that period he desires to eject he must pay compensation. In no case can enhancement of rent, whether upon the sitting tenant or his successor, exceed ½ per cent. of the old rent, but if the sitting tenant will not agree to an enhancement thus limited he must quit without compensation. The new sections also provide that enhancement shall be by notice, they prescribe a procedure for contesting the notice, and detail the liabilities of the tenant, when he retains or vacates the holding, with or without objection to the notice (clauses 1, 2, and 4, paragraph 69, above quoted). The rights of a tenant are, however, to be personal, and provision has been made in sections 36 (1) and 37 (11) that the heir of a tenant who dies shall retain the holding only till the expiry of the statutory term current at the time of his death, and, subject to any claim by the heir to compensation for improvements, the landlord is left free to let the holding to any person at any rent which may be arranged (clause 5, paragraph 69). The new tenant under section 36 (A) then acquires statutory rights similar to those enjoyed by her predecessors.

24. In section 36 (A) power has been taken by the Local Government to vary the limit of enhancement at stated intervals (clause 7, paragraph 69).

25. In Chapter V of the Act are the provisions for ejectment and the determination of tenancies. In this there has been much addition and, for the sake of clearness, some rearrangement of the sections.

26. Section 37 of the Bill reproduces section 41 of the Act unchanged, and states that a tenant with a right of occupancy, and in certain cases may be ejected only by a decree for ejectment. Among these tenants is included, by the present Act, a tenant under a special agreement. A tenant ejected by decree is not entitled to the compensation for disturbance given to the statutory tenant of the Bill. The Lieutenant Governor is of opinion that the section should continue to cover the case of a tenant under special agreement.

27. Section 38 of the Bill is with some alteration section 12 of the Act. It covers the case of all other tenants, and permits their eviction either by a decree for ejectment under section 13 (A) of the Bill, or by an application where decreed arrears of rent remain unpaid, or by the notice of ejectment prescribed by the present Act. The application for ejectment for arrears has been taken from section 35 of the North Western Provinces Rent Act (XII) of 1881, and is a simpler procedure, which the improved position of the tenant justifies, than the application in execution of decree allowed by the present Act.

28. If the landlord proceeds by notice he is required by section 38 (A) of the Bill to deposit the compensation for disturbance, which was part of the scheme of the letter of December, 1883 (paragraph 69, clause 1).

29. In section 39 of the Bill (43 of the Act), which describes the details to be given in the notice, the only important change is that the time of service is put much earlier in the year (15th of November instead of 15th April). Tenancies will now be of seven years' duration, and it is very desirable that notice should be given in sufficient time to admit of all claims on the ground of improvement or other objections being fully sifted and decided before the expiry of the year.

30. Section 40 of the Bill (section 37 of the Act) then details the grounds on which the notice of ejectment may be contested. To the grounds given in the Act have to be added those which the new provision in the Bill requires. The notice may have been issued before the seven years of the statutory tenancy have expired, or the compensation for disturbance may have been deposited only in part or not at all. In sections 39 (A) and 39 (B) of the Bill the tenant is required, if he has any claim to compensation for improvements, to give a specific statement of his claim, and the Court is to determine it before it allows eviction. From the ambiguous language of the Act there have been contradictory rulings in the Rent Courts of Oudh as to the liability of the tenant to eviction before receipt of compensation due to him for improvements. It was clearly the intention of section 22 that he should be compensated before he was removed, and this is definitely expressed in the Bill.

31. Sections 41 and 42 of the Bill represent sections 44 and 45 of the Act with such alterations as the provisions of the preceding sections or experience in the working of the

present Act require. In section 42 of the Bill a clause has been inserted, which was much wanted, enabling the Court to give assistance to the landlord, when needed, to evict a tenant who has contested a notice unsuccessfully. These sections contain the only provisions by which a landlord can remove a tenant of bad character, and no tenant is so likely to resist any action by the landlord himself. If assistance may be properly asked when the tenant has not contested the notice at all, it is more needed when the notice has been contested without valid ground of objection. The section in its present form follows the provision of section 40 of the North-Western Provinces Rent Act.

32. Section 43 of the Bill has been taken, as already explained, from the Rent Act of the North-Western Provinces.

33. Section 13(A) is the provision which the Lieutenant-Governor would substitute for section 11 of the Act, in regard to the terms on which a tenancy may be determined by a decree for ejectment. Section 11 bases it on a failure to perform or observe any of the stipulations of the lease or patta; but the patta of a statutory tenant will not contain any special stipulations, and when such a tenant defaults in his rent the landlord's process will be under section 13 of the Bill.

Even a statutory tenant, however, shall be liable to ejectment if he uses his holding in a manner which renders it unfit for the purposes of his tenancy, and provision to that effect, taken from section 14 of the Bengal Tenancy Act, has been introduced in section 13(A) of the Bill. Moreover, many statutory tenants will hold on gram-rents; and as the amount of the landlord's receipts depends on whether the tenant cultivates, the landlord should be ensured against serious damage by the tenant's deliberate neglect to cultivate. In paragraph 77 of my letter of December, 1883, it was recommended that local custom should be left to decide what extent of failure in cultivation should be followed by forfeiture of the holding. This is the object of the second clause in section 13(A) of the Bill.

Tenants, however, "having a right of occupancy, or holding under an unexpired lease, or special agreement or decree of Court," are protected by section 41 of the Act 37 of the Bill from eviction, except in execution of a decree for ejectment. The section specifies that a decree for ejectment against a tenant with a right of occupancy shall not be made unless at the date of the decree a decree against him for an arrear of rent has remained for fifteen days unsatisfied; but no definite explanation is given of the conditions under which ejectment may be made of the other classes of tenants specified in the section, whether for failure in stipulations in the unexpired lease or special agreement, cessation of the effect of the decree of Court, or other ground for eviction. The Lieutenant-Governor presumes that it has been hitherto left to be decided under the general law whether the grounds for eviction in any such case are or are not sufficient, and that it is unnecessary to give any precise specification. This is, however, a matter on which the Legislative Department will advise.

34. In sections 44 and 45 of the Bill, corresponding to sections 38 and 39 of the Act, the period of the year at which ejectment may take place. A sub-lessee is subjected to a special penalty in section 38(A) of the Bill, and there seems no reason for exempting him from the general rule that ejectment shall take place at the close of the agricultural year. As a statutory tenant he could only then be ejected, and for the same reason the last clause of section 38 of the Act should be omitted.

35. In section 39 of the Act the word *thikadār* has been substituted for sub-lessee.

36. Section 40 of the Act has been practically absorbed in section 13 of the Bill.

37. To this chapter of the Act two sections have been added in regard to *sir* lands. The Lieutenant-Governor accepts the opinion that in the home-farms of the landlords no statutory rights should be recognised in the tenants who may from time to time be admitted to cultivate in them. The principle is recognised in the Tenancy Acts of the North-Western Provinces and Bengal. Whenever, however, statutory rights are recognised outside the private lands of the *zamindār*, it becomes necessary to define what those private lands are. Hitherto there has been in Oudh no special reason for entering as *sir* in the rent-rolls land which is not *sir*, for the change of law now proposed, which is to restrict the arbitrary powers of landlords over all holdings that are outside *sir*, has not been anticipated, and the revision of assessment is still sufficiently distant to make it more convenient for the collection of rent that land let to tenants should be so recorded. From all that has been reported the village rent-rolls are in this respect, as in most others, very fairly correct; and the Lieutenant-Governor is disposed, therefore, to make a less exacting definition of *sir* than that in force in the North-Western Provinces. The definition of *sir* which is given in section 16(A) of the Bill is for these reasons less stringent in several particulars than that which is held in section 1 of the North-Western Provinces Rent Act. It has been proposed on some authority to adjust this definition on the principle of allowing land to fall into *sir* and as not to fall back into ordinary tenancy land by fixing certain periods after which continued cultivation by the landlord or by a tenant should determine the character of the cultivating occupancy. The rule of the North-Western Provinces is to fix a long period of continuous cultivation by the landlord, and then to make the lands so cultivated a permanent addition to his original *sir*, whether he continues to cultivate or lets to a tenant. The Bengal Act prevents any accession to the present *sir* unless it is recognised by village custom.

The Lieutenant-Governor would have been glad, nevertheless, to admit a proposal which is quite in keeping with the fluctuations of all agricultural enterprise, and the developments and depressions which circumstances frequently induce in agricultural families. No adjustment, however, has been discovered to regulate the recognition of lands as *sir* and their restoration to the normal conditions of tenancy which the landlord will not be able so to manipulate as to exclude from the statutory provisions an area of cultivated land considerably larger than that which he for the time being occupies. For the purposes of the landlord's cultivation, moreover, there is no restriction on its development. When a tenant's holding falls in by his death, it is open to the landlord to occupy it himself instead of letting it to another tenant. Whether, therefore, it is called *sir* or not will merely operate in determining whether the landlord can subsequently let it without initiating the usual statutory privileges in his tenant. After mature consideration the Lieutenant-Governor is of opinion that *sir* to the extent of all present requirements is provided by the definition as it stands in the Bill, that this may, as in the North-Western Provinces and Bengal, be permanently excluded from the operation of the sections which regulate the ordinary holdings of tenants, but that for the future no provision should be made by the law to enable a landlord, by private cultivation for any definite period, to remove permanently any lands from the general operation of those sections.

38. The section 43 (B) of the Bill has been added to meet the case of lessees and mortgagees who during their management have brought lands under their personal cultivation. These are lands which, on the expiry of the lease or redemption of the mortgage, are paying no rent; and unless some express provision is made, the lessee or mortgagee would apparently have not only the statutory rights of a tenant, but be entitled to sit rent-free.

39. In Chapter VI (Distress for Arrears of Rent) the Lieutenant-Governor proposes no change.

40. In Chapter VII (Jurisdiction of the Courts) the change are few.

41. In the preamble of section 83 a small change has been made in the terms of section 93 of the North-Western Provinces Rent Act, excluding entirely the jurisdiction of all Courts other than Courts of Revenue in the classes of cases specified.

In clause 3 it seems unnecessary to limit a suit for enhancement to the case of an occupancy-tenant. A lessee in whose lands there may be large alluvion may be liable to a suit for enhancement.

The last part of clause 1 is unnecessary for reasons stated in an earlier part of this letter.

In clause 9 an addition is necessary from the terms of section 26 of the Bill.

In clause 10 an addition is required by section 21 (A) of the Bill.

42. In section 91 an addition is proposed authorizing the Local Government to invest any officer of the grade of a Deputy Collector with the powers of a Deputy Commissioner to hear applications by a tenant under section 24 to make improvements, or of a landlord under section 43 to eject a tenant for arrears of rent.

43. Section 102 of the Act gives summary powers to Deputy Collectors to restore possession which has been illegally disturbed. From orders under this section there is no appeal. Against this section there has been much complaint, and now that the position of the tenant will be comparatively secure it is preferable that the restoration should be by ordinary *sir*, subject to the usual appeal. For this section of the Act has been substituted a provision enabling the landlord to recover a fair rent for land which has been occupied without his permission. The absence of any such provision has been for many years a frequent cause of notice of ejectment. The only course open to the landlord hitherto, when a tenant has added surreptitiously to his holding, has been to eject him, or to attack him by the cumbersome process of a suit in the Civil Court for damages. If the land happened to be out in the previous year, the provisions of sections 55 and 56 of the Act prevent the landlord from recovering any rent in the Rent Court.

44. Section 112 of the Act requires that in all suits under the Act the summons to the defendant shall be for the final disposal of the suit. The suit is in many cases intricate, and will hereafter involve and concern tenures of a longer and more valuable character. It is proposed to limit this provision to specified classes of suits.

45. Section 116 of the Act is no longer consistent with the general provisions of the Bill, and should be omitted.

46. Section 125 of the Act provides that sale of an under-proprietary tenure shall not be made if satisfaction of the decree can be made by management of the tenure under sections 243 and 244 of the Civil Procedure Code of 1859 (or the corresponding sections of the Code of 1882). Management of under-proprietary tenures by the Deputy Commissioner has for some time, however, been recognized as practically impossible. They are generally small; as they come under the Deputy Commissioner's charge, they are usually scattered; and official management can be neither efficient nor economical. If the under-proprietor can give the Deputy Commissioner any anticipation that a private adjustment of

the judgment-debt can be effected by mortgage or otherwise, time can always be given under section 305 of the Code of 1882, and the Lieutenant-Governor's opinion on the whole is that all of the section, except the first sentence, may be without disadvantage omitted.

47. In a concluding chapter (X) of the Bill are entered four new sections.

48. Section 129 reserves to the Local Government authority under the sanction of the Governor General in Council to appoint an officer for the revision of rents in an estate in which from grave mismanagement the condition of the tenantry has been materially deteriorated or the area of the cultivation diminished. This formed the seventh clause of the scheme in paragraph 69 of the letter of 21st December, 1883, and the reasons for the provision have been there sufficiently explained.

49. Under the present registration law all pattas for seven years, for however small a sum, must be registered. The inconvenience of an enforced registration throughout the country would be very serious; and as the pattas of all tenants will be checked by the supervisor-kanúngos, registration seems to be unnecessary. The object of registration is practically effected by his verification, and personation will be difficult when the verification is made in the course of his village rounds. It is proposed, therefore, in section 130, to exempt pattas for the statutory period of seven years from the Registration Act.

50. In section 131 reference is made to a schedule, in which will be entered certain tracts which the Lieutenant-Governor proposes to exclude from the general rule of a statutory right to a seven years' holding. It has been explained in paragraph 78 of the letter of December, 1883, that in part of the northern and submontane districts the rent customs are exceptional, the area in cultivation varies with the season, and the rent is separately settled at each harvest. With these circumstances the general proposals of the Bill will not fit in; but in these tracts the population is sparse, and the tenants can command their own terms. A detail of the areas to be scheduled will be forwarded subsequently.

51. In the last section (132) of the Bill power is taken to the Local Government to make any rules necessary under the Act and consistent with it. The terms of the section have been taken from the last clause of section 211 of the North-Western Provinces Rent Act.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th June, 1886, and was referred to a Select Committee —

NO. 8 OF 1886.

A Bill to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body.

WHEREAS it is expedient to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to amend the Law relating to the powers of the said Trustee; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Museum Act, 1886; and

(2) It shall come into force at once.

2. Sections 3, 4 and 5 of the Indian Museum Act, 1876, are repealed.

3 For those sections the following shall be substituted, namely:—

“Incorporation of the Trustees.

3. The Trustees of the said Indian Museum shall be—

- (a) the person for the time being holding the office of Accountant General of Bengal;
- (b) five other persons to be appointed by the Governor General in Council;
- (c) five other persons to be appointed by the Lieutenant-Governor of Bengal;
- (d) five other persons to be appointed by the Council of the Asiatic Society of Bengal; and
- (e) five other persons to be appointed by the Trustees;

and the said Trustees shall be a body corporate, by the name of the Trustees of the Indian Museum, and shall have perpetual succession and a common seal.

4. All the powers of the said body corporate may be exercised so long and so often as there are nine members thereof.

5. If a trustee appointed under section 3 dies, or is absent from India for more than twelve consecutive months, or desires to be discharged, or refuses or becomes incapable to act,

or becomes Accountant General of Bengal, then the authority which appointed the trustee may appoint a new trustee in his place.”

4. (1) For the purposes of the Indian Museum Act, 1876, as amended by XXII of 1886, the following shall be deemed to be Trustees—

(a) the persons nominated by the Governor General in Council under the Indian Museum Act, 1876, and now holding office as Trustees, shall be deemed to be persons appointed by the Governor General in Council under section 3 of that Act as amended by this Act;

(b) the President of the Asiatic Society of Bengal, and the other members of the Council of that Society nominated by that Council under the Indian Museum Act, 1876, and now holding office as Trustees, shall be deemed to be persons appointed by the Council of the Asiatic Society of Bengal under the said section; and

(c) the persons elected and appointed by the Trustees under the said Act, and now holding office as Trustees, shall be deemed to have been appointed by the Trustees under the said section.

(2) The Secretary to the Government of India and the Superintendent of the Geological Survey of India shall cease to be ex officio members of the said body corporate.

5. Notwithstanding anything in the Indian Museum Act, 1876, the Trustees of the Indian Museum, if they think fit, may, with the previous sanction of the Governor General in Council, and subject in each case to such conditions as he may approve and to such rules as he may from time to time prescribe, assume the custody and administration of collections which are not the property of the Trustees for the purposes of their trusts in that Act mentioned, and keep and preserve the collections either in the Indian Museum or elsewhere; and

(b) in the event of the trust constituted by that Act being determined, collections on which the Trustees have assumed the custody and administration under the foregoing part of this section shall not, by reason of their then being in the Indian Museum, become the property of the Government of India.

And whereas it is provided in the Indian Museum Act, 1876, that the Trustees of the Indian Museum shall have the exclusive possession, occupation and control, for the purposes of their trusts in that

Act mentioned, of the whole of the building called the Indian Museum, except certain portions thereof set apart for other purposes; and whereas the Trustees are by virtue of that provision in possession of the property described in the schedule to this Act; It is hereby enacted as follows:—

6. The Trustees may, with the previous sanction of the Governor General in Council, and subject to such conditions as he may approve, deliver possession of that property to such person as the Lieutenant-Governor of Bengal may appoint in that behalf.

THE SCHEDULE.

Land bounded on the north by a straight line drawn between the east and the west boundaries parallel to the main south wall of the Museum at a distance of twenty-five feet from the said wall, on the west and south-west by the Chowringhee Road and the walls of the premises known as No. 29 Chowringhee Road, on the south by Kyd Street, and on the east by the walls of the premises known as No. 15 Kyd Street and No. 4 Chowringhee Lane, measuring in all four acres, three rods and sixteen perches, together with all buildings, roads and tanks existing or erected thereon, and all easements appertaining thereto.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to give effect to an arrangement made with the approval of the Government of India, whereby—

- (a) the Bengal Government is to be represented among the Trustees of the Indian Museum;
- (b) the Bengal Government is to entrust the Trustees with the custody and administration of the economic, ethnological, Indian Art-ware and Fine Art collections belonging to that Government; and
- (c) the Trustees, in consideration of the provision by the Bengal Government of additional accommodation required by them, are to surrender certain land adjacent to the Museum on which that Government may build a School of Art and Art Gallery.

Sections 3 and 4 provide for the representation of the Bengal Government among the Trustees, and sections 5 and 6 empower the Trustees to assume the custody of the collections belonging to the Bengal Government, and to make over to that Government the land on which the School of Art and Art Gallery are to be built.

The 25th May, 1886.

S. C. BAYLEY.

S. HARVEY JAMES.

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th June, 1886 :—

No. 9 OF 1886.

THE DEBTORS BILL, 1886.

CONTENTS.

SECTIONS.

1. Short title and commencement.
2. Extent.
3. Definition.
4. Enforcement of decree or order for money by imprisonment permissible in excepted cases only.
5. Discretionary powers of Courts in some excepted cases.
6. Power to make rules for guidance of Courts in other excepted cases.
7. Provisions as to imprisonment under Act.
8. Commitment of fraudulent debtors to Magistrate.
9. Special provisions with respect to arrest before judgment.
10. Saving of proceedings antecedent to commencement of Act.
11. Act to bind the Crown.
12. Powers exercisable from time to time.

A Bill to amend the law relating to Imprisonment for Debt.

WHEREAS it is expedient to amend the law relating to imprisonment for debt; It is hereby enacted as follows :—

1. This Act may be called the Debtors Act, 1886; and it shall come into force on the first day of January, 1888.
Short title and commencement.
2. (1) This Act shall extend, in the first instance, only to the territories administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh.
Extent.

(2) But any other Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, extend this Act, with effect on and from a day not less remote than one year from the date of the notification, to the whole or any specified part of the territories under its administration or to any class of debtors within the whole or any specified part of those territories.

3. In this Act the expression "Revenue Court" means a Court having jurisdiction in suits for the rent, revenue or profits of land.
Definition.

4. Notwithstanding anything in the Code of Civil Procedure or any other enactment, a person shall not be liable to arrest or imprisonment for default in compliance with a decree or order of a Civil or Revenue Court for payment of money except in the following cases :—

- (a) where the order is for payment of a fine;
- (b) where the defaulter is a trustee or person acting in a fiduciary capacity, and the decree or order requires him, as such, to pay any money which is in his possession or under his control, or any money for which he is accountable and of which he has not discharged himself;
- (c) where the Court is satisfied that, since incurring the liability in respect of which the decree or order was made, the defaulter has fraudulently transferred, concealed or removed any part of his property, or committed any other act of bad faith in relation thereto, with the object or effect of impeding the enforcement of the decree or order by the attachment and sale of his property;
- (d) where the Court is satisfied that the defaulter either has, or has had since the date of the decree or order, the means to pay the money, and has refused or without reasonable cause neglected, or refuses or neglects, to pay the same.

5. In any case coming within the exception specified in clause (b) of section 4 the Court may, after inquiry into the case, exercise its discretionary powers of Courts in some excepted cases.

grant or refuse, either absolutely or on terms, any application for the arrest or imprisonment of the defaulter, or for his release from arrest or discharge from imprisonment.

6. (1) The High Court, with respect to Courts subordinate to it, and the Chief Controlling Revenue authority, with respect to Courts subordinate to it, may, with the approval of the Local Government and the sanction of the Governor General in Council, make rules for regulating the procedure to be observed in inquiries for determining whether the case of a defaulter for whose arrest or imprisonment application has been made is a case coming within the exceptions specified in clauses (c) and (d) of section 4, or within either of those exceptions.

(2) Rules may be made under this section—

(a) for the territories administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh, at any time after the passing of this Act, and

(b) for territories under the administration of any other Local Government, at any time after the publication of the notification extending this Act to those territories or to any class of defectors therein;

but rules so made shall not take effect until the Act comes into force in the territories for which they have been made.

(3) An authority making rules under this section shall, before making the rules, publish a list of the proposed rules in such manner as the Governor General in Council, by notification in the Gazette of India, prescribes.

(4) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(5) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(6) A rule made under this section shall not take effect until it has been published in the local official Gazette.

(7) The publication in that Gazette of a rule purporting to be made under this section shall be conclusive proof that it has been duly made.

7. The operation of the enactment under which the defaulter is liable to

Provisions as to arrest or imprisonment in any case coming within the exceptions specified in clauses (c), (d) and (e) of section 4, or within any of those exceptions, or is entitled to release from the arrest or discharge from the imprisonment, shall be subject to the following provisions, namely:—

(a) the defaulter may be imprisoned for such term, not exceeding six months, as the Court directs;

(b) no allowance for the subsistence of the defaulter, or for supplying him with clothing or bedding, shall be payable by the person on whose application the order for the imprisonment of the defaulter is made;

(c) during the term of his imprisonment the defaulter shall be maintained at the

expense of the Government, and be subject, as nearly as circumstances admit, to the discipline prescribed in the case of a criminal prisoner undergoing simple imprisonment;

(d) notwithstanding the payment of the money in respect of which the decree or order was made, or any arrangement for the payment thereof or proof of present inability to pay it, or any expression of intention to apply for a declaration of insolvency, or any declaration of insolvency, or any request by the person on whose application the order for the arrest or imprisonment was made, the defaulter shall not be released from arrest, or, if he is in prison and the term of his imprisonment is not fulfilled, be discharged from prison, without the order of the Court;

(e) an appeal from the order for the imprisonment of the defaulter, and from an order refusing his release or discharge under clause (d) of this section, shall lie—

(i) if the Court making the order is a Civil Court subordinate for the purposes of the Code of Civil Procedure to the District Court, then to the District Court,

(ii) if the Court making the order is any other Civil Court, then to the High Court, and

(iii) if the Court making the order is a Revenue Court, then to the authority to which appeals lie from orders of the Court relating to the execution of decrees, or, where those orders of the Court are final, to such authority as the Local Government may, by notification in the official Gazette, appoint in this behalf;

and the order passed on the appeal shall be final.

8. Where the Court is of opinion that the Commitment of a defaulter has been guilty of any offence under the Indian Penal Code or under any enactment for the time being in force for the punishment of fraudulent debtors, it may, if it thinks fit, instead of ordering his imprisonment under this Act, send him to a Magistrate to be dealt with according to law.

9. Notwithstanding anything in Chapter XXXIV of the Code of Civil Procedure, or any other enactment, a defendant in a suit for money only who has been arrested before judgment shall not, as such, either be required to give security for his appearance at any time after the day on which judgment is given, or, if he has been committed to prison, be detained in prison after that day:

Provided that, if judgment is given against the defendant, and the decree-holder applies, on the day on which judgment is given, for the enforcement of the decree by the imprisonment of the judgment-debtor, the Court may require the judgment-debtor to give such security as it thinks

sufficient for his appearance at any time when called upon while the application is pending, and, if he fails to give the security, may commit him to prison, or place him in the custody of an officer of the Court, until the disposal of the application.

10. Nothing in this Act shall affect the liability of any person for whose arrest in execution of a decree or order a warrant has been issued by a Civil or

Revenue Court before this Act comes into force in the territory in which the Court is established.

11. The provisions of this Act shall bind the Crown.

12. All powers conferred by this Act may be exercised from time to time as occasion requires.

STATEMENT OF OBJECTS AND REASONS.

Imprisonment for Debt in India.

A decree or order for the payment of money may be enforced in India by the imprisonment of the judgment-debtor (Act XIV of 1882, s. 254). The Court has a discretionary power to refuse execution at the same time against the person and property of the judgment-debtor (s. 20), but has no discretionary power to refuse execution either against person or against property at the option of the creditor. When an application for execution of a decree is presented, it must, if it is not barred by efflux of time and is otherwise in order, be admitted, and then the Court must order execution of the decree *according to the nature of the application* (s. 215). The Court cannot refuse to issue its warrant for the execution of the decree unless it sees cause to the contrary (s. 20), and "cause to the contrary," as interpreted by the Courts, means some cause which deprives the decree-holder of the right to execute, or to execute against the party against whom execution is sought, or to execute in the mode prayed for.

2. A judgment-debtor may, when arrested, obtain immediate release by payment of the debt; but if he does not, he must be brought at once before the Court (ss. 336-337).

3. The Local Government may by notification* direct that whenever a judgment-debtor is arrested in execution of a decree for money, and brought before the Court, the Court shall inform him that he may apply, under Chapter XX of the Code, to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of his application, and if he places all his property in possession of a receiver appointed by the Court (s. 336).

4. If the judgment-debtor expresses his intention so to apply, and furnishes sufficient security that he will appear when called on, and that he will, within one month, apply to be declared an insolvent, the Court is to release him from arrest. But if he fails so to apply, the Court may either direct the security to be realised, or commit him to prison in execution of the decree (s. 336).

5. A person is not to be imprisoned in execution of a decree for more than six months, or, if the debt does not exceed fifty rupees, for more than six weeks (s. 337).

6. Whilst he is in prison, a monthly allowance must be paid for his subsistence according to scales fixed by the Local Government. The allowance is to be supplied by the decree-holder, and is to be deemed costs in the suit (ss. 338 to 340).

7. He is to be discharged from prison—

- (a) on the amount mentioned in the warrant of committal being paid to the officer in charge of the prison, or
- (b) on the decree being otherwise fully satisfied, or
- (c) at the request of the person on whose application he has been imprisoned, or
- (d) on default in the payment of the allowance for his subsistence, or
- (e) on his being declared an insolvent, or
- (f) on the expiration of the term of his imprisonment (s. 341).

His discharge from prison does not discharge him from his debt, but he cannot be re-arrested under the same decree (s. 341).

8. By the Presidency Small Cause Courts Act, XV of 1882, the provisions of the Code of Civil Procedure are applied, with modifications and exceptions, to the procedure in the Small Cause Courts at Calcutta, Madras and Bombay. Among the provisions not so applied are those which relate to the release of an arrested judgment-debtor on his expressing an intention to apply for a declaration of insolvency. Chapter XX of the Code, relating to insolvent judgment-debtors, is also not applied to these Courts. (See s. 23 and sched. II.)

9. The Act, however, contains certain special provisions with respect to an arrested judgment-debtor. Under section 29 the Court may release him from arrest on his giving security for payment. And under section 30, if it appears to the Court that a judgment-debtor under its decree is unable, from sickness, poverty or other sufficient cause, to pay the amount of the decree, or of any instalment under the decree, the Court may, from time to time, for such time and on such terms as it thinks fit, suspend the execution of the decree, and release the debtor, or make such order as it thinks fit.

10. In the four districts of the Dekkhan to which the Dekkhan Agriculturists' Relief Acts apply arrest and imprisonment for debt have been abolished in the case of agriculturists.* And certain special Acts for the relief of embarrassed landholders contain provisions protecting the debtor from arrest or imprisonment in respect of the debts to which the Acts apply.

* "No agriculturist shall be arrested or imprisoned in execution of a decree for money passed whether before or after this Act comes into force."—(Act XVII of 1879, s. 21, as amended by Act XXII of 1882, s. 8.)

Acts apply arrest and imprisonment for debt have been abolished in the case of agriculturists.* And certain special Acts for the relief of embarrassed landholders contain provisions protecting the debtor from arrest or imprisonment in respect of the debts

Imprisonment for Debt in England.

11. Imprisonment for debt was abolished in England by the Debtors Act of 1869 (32 & 33 Vic., c. 62), except in the following cases:—

- (1) default in payment of a penalty, or sum in the nature of a penalty, other than a penalty in respect of a contract;
- (2) default in payment of a sum recoverable summarily before a Justice or Justices of the Peace;
- (3) default by a trustee or person acting in a fiduciary capacity and ordered to pay by a Court of Equity any sum in his possession or under his control;
- (4) default by a solicitor in payment of costs, when ordered to pay costs for misconduct as such, or in payment of a sum of money, when ordered to pay the same in his character of an officer of the Court;
- (5) default in payment for the benefit of creditors of any portion of a salary or other income, in respect of the payment of which any Court having jurisdiction in bankruptcy is authorized to make an order;
- (6) default in payment of sums in respect of the payment of which orders may be made under the Act (that is, cases of contumacious refusal under section 5 of the Act, see para 14).

12. The term of imprisonment in these excepted cases must not exceed one year (s. 4).

13. In cases (3) and (4) the Court has power to enquire into the case, and at discretion to grant or refuse an order for arrest or imprisonment (41 & 42 Vic., c. 54, s. 1).

14. Under section 5 of the Act of 1869, a Court may commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt, or instalment of any debt, due from him in pursuance of any order or judgment of that or any other competent Court. But the power is not to be exercised unless it is proved to the satisfaction of the Court that the person making default has, or has had, since the date of the order or judgment, the means to pay the sum in respect of which he has made default, and has refused or neglected to pay it. "Proof of the means of the person making default may be given in such manner as the Court thinks just, and for the purposes of such proof the debtor and witnesses may be summoned and examined on oath, according to the prescribed rules." A summons under this section is usually called a judgment summons.

15. It will be observed that all the cases in which a debtor is liable to imprisonment under the Act of 1869 involve some degree of delinquency†. And it has been held by high authority‡ that the Act was distinctly intended for the purpose of punishing fraudulent or dishonest debtors.

16. Sums recoverable summarily before Justices, or, as they are called in modern statutory language, Courts of summary jurisdiction, are usually fines. But as ordinary civil debts are in some cases so recoverable, it has been provided by the Summary Jurisdiction Act, 1879 (42 & 43 Vic., c. 49, section 35) that an order of a Court of summary jurisdiction for the payment of a civil debt is not to be enforced by imprisonment, unless the case is such as would make the debtor liable to imprisonment under section 5 of the Debtors Act, 1869.

Imprisonment for Debt in Scotland.

17. In Scotland imprisonment for debt for sums under £8-6-8 was abolished in 1835 by 5 & 6 Wm. IV, c. 70, but alimentary debts (that is, debts for the support of the debtor's wife or children) were excepted from the operation of that Statute. In 1880 was passed the Debtors (Scotland) Act, 1880 (43 & 44 Vic., c. 34), which enacts, by section 4, that,

"with the exceptions hereinafter mentioned, no person shall, after the commencement of this Act, be apprehended or imprisoned on account of any civil debt.

"There shall be excepted from the operation of the above enactment—

- (1) taxes, fines or penalties due to Her Majesty, and rates and assessments lawfully imposed or to be imposed;
- (2) sums decreed for alimony;

"Provided that no person shall be imprisoned in any case excepted from the operation of this section for a longer period than twelve months."

The same Act contains provisions for the relief of insolvent debtors and for the punishment of fraudulent debtors.

18. By the Civil Imprisonment (Scotland) Act, 1882 (45 & 46 Vic., c. 42), imprisonment for alimentary debts was abolished, except in cases where there is a wilful failure to obey the decree for the debt (ss. 3 and 4), and the maximum term of imprisonment for failure to pay rates or assessments was reduced to six weeks (s. 5).

Imprisonment for Debt in Ireland.

19. In Ireland the law as to imprisonment for debt is regulated by the Debtors Act (Ireland), 1871 (35 & 36 Vic., c. 57), as amended by 41 & 42 Vic., c. 54, and is practically identical with the English law.

Proposals for amendment of Indian Law.

20. On the 17th November, 1881, a circular was addressed by the Government of India to all Local Governments and Administrations, stating that the Government of India had under consideration the question of amending the provisions of the Code of Civil Procedure bearing upon the question of the arrest of *undivided* women in execution of the decrees of Civil Courts, but that before coming to any final conclusion on the subject the Governor General in Council thought it desirable to deal with the larger question of abolishing imprisonment for debt, and for this purpose to enquire whether sufficient reasons exist for the continued maintenance in India of the present system. Local Governments and Administrations were accordingly requested to favour the Government of India with a full expression of their opinion on the matter.

21. The replies to the circular disclosed much difference of opinion as regards the advisability of maintaining in India the present system of imprisonment for debt.

22. In favour of the maintenance under existing circumstances of the present system of imprisonment for debt were the Madras Government, the Madras High Court, the Bombay Government, the Bombay High Court, the Calcutta High Court, the Calcutta Chamber of Commerce and the Trades Association, Calcutta (unless a change were accompanied by the enactment of a stringent bankruptcy law), the British Indian Association, Calcutta, the Board of Revenue, North-Western Provinces, the Punjab Chief Court, the Chief Commissioner of the Central Provinces, the Chief Commissioner of Assam (provided the law were so altered as to permit the issue of process against the person only after all means of realising the decree by process against property have been exhausted), and the Chief Commissioner and the Judicial Commissioner of Coorg. The arguments which they advanced appear to be in the main the following:—

- (a) that the total abolition of imprisonment for debt in India would be premature, and would remove from the Statute Book the only check upon the fraudulent alienation of property by solvent but dishonest debtor;

- (b) that legislation has proceeded quite far enough in relief of the judgment-debtor,

• Sir P. Sargent, of the Bombay High Court, wrote

"The legal incidents of the undivided Hindu family, the minute distribution of property caused by the Mitakshara law of descent, and, in debt at least, the practice of creating fictitious titles so common in this country, afford the dishonest debtor endless opportunities of evading the claims of the judgment-creditor to attach his property."

while there are in India special difficulties in executing a decree by attachment of property when the judgment-creditor is a member of an undivided* family. Creditors are not, it is said, in the habit of proceeding to extremities unless the debtor has the means of liquidating a portion at least of the debt. The men who go to prison are

for the most part those who obstinately refuse to pay their debts, and cases of imprisonment for debt are not numerous;

- (c) that the abolition of imprisonment for debt would deprive lenders of personal security, would thereby depreciate credit, and would involve an increase in the rate of interest, already very high. In the case of agriculturists this might seriously impair their ability to pay the land-revenue;

- (d) that abolition of imprisonment for debt should only be attempted when the habits of secrecy, engendered by centuries of oppression, have partly worn away, and when transactions are open and the registration of deeds and bonds has become habitual. When the debtor's property can be easily traced and seized in execution of a decree, then it will be reasonable and right to withhold execution on the body of a pauper debtor except as a distinctly exceptional and penal measure in the case of fraud.

23. In support of the abolition of imprisonment for debt were the following authorities:—

- (a) the Advocate General of Bengal, who advocated the introduction of the English system, because there is no reason why the matter should not be regulated in India as in England, if proper exceptions and limitations, as contained in the English Debtors Act of 1869, are prescribed, and because the abolition of imprisonment for debt would not cause any public injury, while, on the other hand, the present system in most instances operates only as a means of oppression, to the total ruin of the party imprisoned and of his family;
- (b) the Bengal Government, which, while not prepared to resist the opinions of the local officers that abolition would at present be premature, thought that, if an alteration of the bankruptcy law were at any time undertaken, measures might then be adopted for the abolition of imprisonment for debt in cases where fraud is not established against the judgment-debtor;
- (c) the North-Western Provinces and Oudh Government, which regarded the existing practice of placing in the creditor's hands the power of selecting his own method of coercion as a relic of the old semi-barbarous old laws which has now been eliminated from almost every civilized code of judicial procedure. The present system operates with severity against all debtors, honest and dishonest, indiscriminately. The power of subjecting a debtor to arrest and imprisonment should be entrusted not to the decree-holder, but to the Courts, and its exercise should be limited to cases where clear proof exists of fraudulent and contumacious attempts on the part of the judgment-debtor to defeat the operation of a decree. Imprisonment is especially hard on the cultivator and working man, whom it deprives of their means of subsistence and of providing for their families;
- (d) the North-Western Provinces High Court, which only scented the abolition of imprisonment for debt, as it is doubtful whether "any useful purpose is served by the perpetuation in this country of that remnant of barbarism";
- (e) the Punjab Government, which believed that there is some reason to fear that, under the present system, creditors occasionally make use of the law to gratify vindictive feelings or personal spite, and to coerce debtors to sell their land and property at a price below its proper value or to relinquish their just rights. Discretionary power ought to be expressly allowed to the Civil Courts, imprisonment not being resorted to as an ordinary process of execution of a decree, unless the Court is satisfied that there has been fraud or wilful concealment of property;
- (f) the Chief Commissioner of British Burma, who pointed out that the imprisonment of debtors who are payers, but who are not fraudulent, does no real good to any class, works directly and indirectly great harm to the poorer classes, and causes a distinct loss to the community at large. The practice of permitting such imprisonment has been gradually circumscribed among other civilized nations; among some nations it has absolutely ceased; and there is no reason why the way should not be paved for the disappearance of the system in India. Civil Courts should be allowed to grant execution against the body of judgment debtors against whom there might be *prima facie* ground for presuming fraud or bad conduct, unless the presumption were rebutted by the judgment debtor;
- (g) the Judicial Commissioner of British Burma and the Recorder of Rangoon, who were of opinion that imprisonment for debt should be abolished, except in case of fraud, which should be punished criminally. The Recorder recommended that the law as to cow-dairs in England should be applied to India;
- (h) the Resident at Hyderabad, who considered that the present system of imprisonment for debt is not wanted to compel payment, while it may tend to bring undue pressure to bear upon a debtor, especially in an agricultural country where interest is usually given as security for debts. He recommended that imprisonment for debt should be retained only to meet cases in which debtors abuse and on such cases to conclusively evade meeting their obligations.

24. Thus, the preponderance of opinion was on the whole in favour of the maintenance of imprisonment for debt under the present condition of India, but a considerable and influential minority were in favour of its abolition.

25. The arguments on which the upholders of the present system rely fall into two classes: first, arguments which, if valid at all, are valid for England as well as for India; and, secondly, arguments based on the special circumstances and conditions of India.

26. To arguments of the first class belongs the assertion that "to remove from the Statute Book the penalty of arrest and imprisonment in execution of a decree for money would be to paralyze the commerce and trade of the country." The same objection was made in England, first to the abolition of arrest on mesne process,¹ and afterwards to the abolition of arrest on final process. The power of arrest was removed, and neither commerce nor trade shewed any symptoms of paralysis.

¹ See Lord Cottenham's speech in 1834 on the Ceditors and Debtors Bill; Hansard, 76, page 141.

27. Those who uphold imprisonment for debt, not as being generally expedient, but as being specially required for India, do so mainly on two grounds: first, the complexity and obscurity of Indian titles to property; and, secondly, the exceptional prevalence of fraud in India, and the exceptional difficulties of detecting it.

As to the first ground, it has been remarked that if it is wrong to allow a debtor to pledge his person as security for his debts, it is not the less wrong, besides, owing to the defect of Indian property law, he finds difficulty in giving a satisfactory security over his property.

In the argument based on the prevalence of, and difficulty of detecting, fraud, there is undoubtedly much force, though it may be doubted whether the obstacles which can be placed in the way of a creditor realizing his debt are not as great in England as in India. But, however this may be, to make an honest, though needy, debtor liable to imprisonment, simply because fraudulent debtors are numerous and difficult to detect, appears to be as unjust as it would be to make homicide by misadventure punishable by death, simply because the crime of murder was rife and hard to prove.

28. There are in the opinion of the Government of India two principles which ought to be observed in every law of debtor and creditor. The Court ought not to give effect to any pledge by a debtor either of his person or of the necessities of life. The debtor ought not to be allowed, by his own action, sanctioned by the action of the Courts, either to deprive himself of his personal liberty, or to expose himself to starvation. If he cannot obtain credit except on one or other of these securities, it is better that he should not obtain credit at all. Experience acquired in the Dekkhan goes to show that these principles are as applicable to India as to England. The Code of Civil Procedure recognises one of these principles by exempting from seizure for debt the debtor's home, means, or subsistence. But this recognition is nullified by the refusal to adopt the principle of exempting the debtor's person from seizure. Of what use is it to exempt by law the debtor from the necessities of life, when he can be compelled to give them up by the threat of imprisonment? By those who advocate the retention of the present system, no advantage is placed on the very small proportion of actual imprisonments to warrants of arrest, and the inference drawn from this proportion is that the law, though harsh in theory, produces no hardships in practice. But there is reason to believe that, in the great majority of cases, exemption from arrest is purchased either by renewal of bonds on extortionate terms, or by surrender of property which the law had exempted from seizure, or by surrender of property which does not belong to the debtor himself but to his relations or friends. In other words, the law enables a creditor to do indirectly what it forbids him to do directly.

29. It is said that the honest debtor has an easy way out of prison through the door of insolvency. But in the first place, the honest debtor ought not to be sent to prison at all; and in the next place, the door which is provided for his release is, for some reason or other, very rarely used. There is, or was until recently, a strong current of opinion to the effect that the Insolvency Chapter of the Code of Civil Procedure is practically a dead letter. As to the causes of its failure,—whether it is to be accounted for by the preliminary proceedings being unnecessarily cumbersome or expensive, or by the difficulty of satisfying the Court under section 351 that the debtor has not been guilty of any kind of misconduct, or by ignorance of the law and of the modes of relief available to debtors,—opinions differ; but about the fact of failure there appears to be no difference.

30. Since 1883 the Government of India has received and published reports obtained from Her Majesty's representatives abroad on the systems of imprisonment for debt in force in the various countries to which they are accredited. Those reports showed that imprisonment for debt has been abolished in nearly all civilized countries.

31. Having regard to the state of the law in the United Kingdom, to those reports, to the success which has attended the abolition of imprisonment for debt in the case of agriculturists to whom the Dekkhan Agriculturists' Relief Acts apply, to the expressions to be found in the opinions of the authorities who considered the debtors' Relief Act of 1855, and to the advocacy by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh, and by the Chief Justice and Judges of the High Court of Judicature for the North-Western Provinces, of the abolition of the process of arrest for debt, so far as it is a process that can be set in motion at the discretion of a creditor, and of the enforcement of the process being restricted to cases in which the Courts are satisfied that there have been fraudulent and continuative attempts to defeat the operation of decrees, the Government of India has decided to introduce a Bill giving effect tentatively and in the first instance, within a limited area, to the policy which dictated the English Act of 1869, and is believed by several authorities of weight to be applicable to India.

Provisions of Bill.

32. *Sections 1 and 2.*—It is proposed that the measure shall apply in the first instance to the North-Western Provinces and Oudh, and be extendible to other Provinces, or to particular classes of debtors in other Provinces, by Local Governments with the previous sanction of the Governor-General in Council.

From the opinions recorded by the Chief Commissioner and by Mr. MacEwen, the Officiating Recorder of Rangoon, on the draft Bankruptcy Bill of 1885, and by the Recorder, Judicial Commissioner and other authorities, European and Native, on the circular of 1881, there appears to be a strong feeling in Burma in favour of abolishing imprisonment for debt where the debtor has not been guilty of fraud. But it is considered desirable that the proposed Act should apply in the first instance to the territories under one Local Government, and that its effect there should be ascertained before the Act is extended to other parts of the country.

The date on which the Act is to come into force in the North-Western Provinces and Oudh is the 1st of January, 1888. If therefore the Bill is passed during the present year, decree-holders will have more than twelve months within which they may proceed against their judgment-debtors under the provisions of the Code of Civil Procedure. In England the period which elapsed between the passing and the coming into force of the Debtors Act 1869, was less than five months.

33. *Section 4.*—This section is based on section 4 of the Debtors Act, 1869, but applies only to arrest and imprisonment for default in compliance with decrees and orders of Civil and Revenue Courts. Clause (c) is specially designed to check those fraudulent alienations of property by solvent but dishonest debtors which are relied on by the opponents of any mitigation of the existing law as the main justification of imprisonment for debt.

34. *Section 5.*—This section, following the 41 & 42 Vic., c. 54, permits the Court to refuse, either absolutely or on terms, an application for the arrest or imprisonment, or for the release or discharge from arrest or imprisonment, of a defaulter who is a trustee or person acting in a fiduciary capacity and is required, as such, to pay any money which is in his possession or under his control, or any money for which he is accountable and of which he has not discharged himself.

The origin and object of this clause are stated as follows by Jessel, M. R., in *Morris v. Ingram* (L. R. 13 Ch. D. 343):—

"Then we come to the Amendment Act of 1878, which was passed to meet a special class of cases, and the history of that Act was this. An application was made before me for the imprisonment of a trustee who had been ordered to pay a sum of money. It was a very hard case, one of an unintentional breach of trust; and though the man was actually dishonest I had no alternative but to make an order. Then I had various other cases before me which led me to regret that the Court had no discretion, for it not infrequently happened

* That is to say, the default specified in 32 & 33 Vic., c. 62, s. 4.

that a person who came in strictly under the first class of offences was not guilty of any moral offence. Under these circumstances I thought it would be wise and prudent that a discretion should be given to the Courts to deal with exceptional cases, but not with the intention of repealing the existing Act. Mr. M. R. B. being a member of the Legislature, then adopted my suggestion, and procured this Amendment Act to be passed."

35. *Section 6.*—This section empowers the High Court and the Chief Controlling Revenue-authority to make rules for regulating the procedure to be followed in the Courts subordinate to them respectively in matters as to the liability of persons to arrest and imprisonment on the ground of fraud or concealment.

36. *Section 7.*—This section modifies the operation of enactments authorising arrest and imprisonment for default in compliance with decrees and orders of Civil and Revenue Courts for payment of money.

Clause (a), following the Code of Civil Procedure, limits the term of imprisonment to six months, notwithstanding that section 113 of the North-Western Provinces Rent Act, 1881, authorises imprisonment in certain cases for so long a period as two years.

Clause (b) relieves the decree-holder of the liability to maintain his judgment-debtor while in prison. If imprisonment is retained, not as a mode of enforcing payment but simply as a punishment, it will hardly be possible to continue the liability. This liability existed under the old Insolvency Law in England, and the Act which imposed it was once described as giving the creditor "the power of imprisoning and tormenting his debtor at the

* Hansard, 71, page 151

expense of 3s. 6d. per week." If it is abolished, great care should be taken that imprisonment is not inflicted except in cases of misconduct which deserve punishment.

Clause (c) requires that the defaulter, though in the civil jail, shall nevertheless be subject, as nearly as circumstances admit, to the discipline prescribed in the case of a criminal prisoner undergoing simple imprisonment. Where a person is ordered to pay a fine, the nature and term of his imprisonment will be regulated by the general law. This clause relates to the other cases in which a debtor is liable to imprisonment. Those cases, as before observed, all involve some degree of delinquency (L. R. 6 Ch. 151), and the imprisonment contemplated by the Bill, as by the Debtors Act (L. R. 13 Ch. D. 343), is simple, that is, without hard labour. The effect of this clause will be to deprive the defaulter, as a civil prisoner, of the privilege of maintaining himself, and purchasing or receiving from private sources food, clothing, bedding, and other necessaries (Act XXVI of 1870, s. 31).

Clause (d) provides that, except where the arrest or imprisonment is for default in payment of a fine, the defaulter, when once arrested or imprisoned, shall not be released from

arrest, or discharged from prison, without the order of the Court. The Court may grant the order or refuse it. If it refuses the order, the defaulter may appeal.

Clause (e) so far modifies clause (29) of section 588 of the Code of Civil Procedure as to admit of an appeal being preferred from an order for imprisonment in execution of a decree.

37. *Section 8.*—This section follows section 359 of the Code of Civil Procedure in providing that where the Court is of opinion that the defaulter has been guilty of an offence against the Indian Penal Code or any special enactment for the punishment of fraudulent debtors, it may, instead of ordering his imprisonment in the civil jail, send him to a Magistrate to be dealt with according to law.

38. *Sections 9 and 10.*—These sections contain special provisions with respect to arrest before judgment, and save proceedings taken before the Act comes into force.

39. *Section 11.*—It has been decided *in re Havens Smith* (L. R. 2 Ex. D. 17) that the English Debtors Act of 1869 does not apply to a case in which the defaulter is a debtor to the Crown. It is proposed that the Indian Act shall have the like effect as against the Crown where a decree or order for payment of money is made in its favour by a Civil or Revenue Court, as it will have against a subject.

40. The question of giving the Courts a discretionary power to refuse an order for the arrest and imprisonment of a judgment-debtor, or at least of a female judgment-debtor, will be considered when next the Code of Civil Procedure comes under revision.

C. P. ILBERT.

The 9th June, 1886.

S. HARVEY JAMES,

Offg. Secretary to Government of India

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th June, 1886.—

NO. 10 OF 1886.

Bill to declare certain allowances collected known as Oudh Wasikas to be pensions within the meaning of the Pensions Act, 1871.

WHEREAS, on the death of Her Highness the Bahm Begam, His Highness the Nawab Vazir of Oudh delivered to the British Government a sum of money with intent that the interest accruing thereon should, in compliance with the wishes of Her Highness the Bahm Begam as expressed in the Deed of Deposit executed by her in the year 1813, be applied by the British Government to the payment of certain pensions, which pensions are known as the Amanat Wasikas;

And whereas in the year 1813 the said Government guaranteed the payment of certain pensions to persons connected with the Khais Mahal of Her Highness the Bahm Begam, which pensions are known as the Zamanat Wasikas;

And whereas in the years 1814, 1825, 1829 and 1838 loans, known respectively as the 1st, 2nd, 3rd and 4th Oudh loans, were made by the Ruler of Oudh to the Hon'ble the East India Company with intent that the interest accruing thereon should be applied by the said Government to the payment of certain pensions, which pensions are known as the Loan Wasikas;

And whereas the said Government reserved to itself the right of commuting the pensions to the

payment of which the interest accruing on the 5th Oudh loan was to be applied;

And whereas the Amanat, Zamanat and Loan Wasikas have been regarded as pensions to which the Pensions Act, 1871, applies, and in respect of which there have been made and paid out under section 11 of that Act;

And whereas, since the introduction and publication of the said Act, it has been a question whether the said Wasikas are pensions within the meaning of the Pensions Act, 1871;

XXIII of 1871.

And whereas it is expedient to declare them to be pensions within the meaning of that Act;

It is hereby enacted as follows:—

1. This Act may be called the Oudh Wasikas Act, 1886.
2. The allowances respectively known as the Amanat Wasikas, the Zamanat Wasikas and the Loan Wasikas are, within the meaning of the Pensions Act, 1871, pensions conferred by a former Government and continued by the British Government on political considerations.
3. Notwithstanding anything in section 10 of the Pensions Act, the said Act, the Local Government or that Government may, without the consent of the holder of a pension payable out of the interest accruing on the 5th Oudh loan, order the whole or any part of the pension to be commuted on the terms referred to in the fourth article of the treaty executed with respect to that loan on the first day of March, 1829, and ratified by the Governor General in Council on the eighth day of May in the same year.

STATEMENT OF OBJECTS AND REASONS.

CERTAIN allowances, locally known as Amanat Wasikas, Zamanat Wasikas and Loan Wasikas, are paid by the British Government to the descendants of certain relatives and dependants of the Bahm Begam and the Vazirs and Kings of Oudh. Till the year 1880 no doubt was entertained that these allowances were pensions within the meaning of the Pensions Act, 1871. In that year it became desirable on financial grounds to commute one of the largest of them, and a dispute having arisen as to the persons entitled to receive the capitalized amount of the allowance, the Government had to consider whether it could safely pay the amount under cover of the Pensions Act to the persons who appeared to be best entitled. The Hon'ble the Advocate General inclined to the opinion that a Wasika was a pension within the meaning of the Act, but thought there was a good deal to be said in favour of the opposite view. As the sum involved was so very large that the Government would not have been justified in incurring any risk in disposing of it, a special Bill was introduced into the Legislative Council and passed as the Taj Mahal's Pension Act, 1881.

This step, which the Government was compelled to take for its own protection, necessarily suggested a doubt as to the applicability of the Pensions Act to Wasikas.

As it is expedient on political considerations that there should be no room for question as to the applicability of the Act to Wasikas, the Government has decided to introduce this Bill to remove the doubts created by the legislation of 1881.

The 9th June, 1886.

J. W. QUINTON.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.
HOME DEPARTMENT.

REVIEW OF THE REGISTRATION REPORTS OF THE SEVERAL PROVINCES
FOR THE YEAR 1884-85.

No. 13
795-807.

*Extract from the Proceedings of the Government of India, in the Home Department (Public),—
under date Simla, the 4th June, 1886.*

Read—

Home Department Resolution No. 15—617-29, dated the 22nd April 1885, reviewing the Registration Reports of the several Provinces for the year 1883-84.

Read also—

The Registration Reports of the several Local Governments and Administrations for the year 1884-85.

R E S O L U T I O N .

OBSERVATIONS.—The Governor General in Council notices with satisfaction the progress which has been made in this important department of the Administration under Local Governments and Administrations. Regarding the operations of the Registration Departments as a whole, there has been, as the figures in the margin show, an increase of 138,465 in the number of documents registered during the year under review compared with the results of 1883-84. The receipts have risen to Rs. 28,37,933 from Rs. 25,67,916, while an expenditure of Rs. 19,03,957 in 1884-85, compared with Rs. 17,02,760 in the preceding year, shows that the Department is alive to the necessity of affording the public increased facilities for registration.

2. The increase in the number of documents registered, which in itself testifies to the growing popularity of the system of registration, manifests itself alike in both classes of documents—those which it is compulsory upon parties to register and those of which the registration is optional. It is, however, possible that the operation of the Transfer of Property Act, which, by rendering compulsory the registration of all deeds of sale of immoveable property under Rs. 100 in value, practically effaces the distinction between sections 17 and 18 of the Registration Act in regard to such transactions, may have had some effect in producing the increased number of registrations shown as optional. The question of modifying the statistical returns with reference to the effect in this direction of the Transfer of Property Act is now under the consideration of the Government of India.

The following statement compares the number of documents of each class registered during the year under review with similar registrations in 1883-84; and in the tabulated statement appended to this Resolution further information of statistical interest is furnished in connexion with the operations of the Department:—

		Number of registrations affecting immoveable property.			Number of other registrations.	Grand Total
		Compulsory.	Optional.	Total.		
1883-84	...	815,976	465,596	1,281,572	267,613	1,549,185
1884-85	..	886,610	516,579	1,403,189	224,461	1,627,650

3. The aggregate results for the various Governments and Administrations, as stated above, are on the whole satisfactorily distributed with regard to localities. To begin with the Madras Presidency, the progress which has been so

marked during the past few years has been fully maintained. In this presidency the number of registrations has risen from 478,131 in 1883-84 to 510,699 in 1884-85; and it is a satisfactory feature in this increase that it is even more apparent in the optional than in the compulsory class of registrations. In the latter the percentage of increase is 5·6, while in the former it is 7·7. The financial results are also very satisfactory, the income of the year having risen to nearly 7½ lakhs, showing an increase of 19 per cent. above the highest revenue obtained in any year since the organisation of the department. This increase is no doubt to some extent attributable to the introduction of a revised scale of fees, by which fees leviable on documents of high values were slightly raised. The Governor General in Council would be glad to know whether, concurrently with this enhancement of fees at the top of the scale, any reduction in the fees at the bottom, with which the poorer classes are chiefly concerned, has been found practicable. It is noted with approval that in the expenditure of the department attention was paid to providing additional office accommodation.

4. In the Bombay Presidency an increase of 9·89 per cent. in the number of (mostly compulsory) registrations was also accompanied by a substantial increase in receipts, which amount for the year under review to Rs. 3,18,351. In only one district, Kanara, do results show any noteworthy falling off; and here the decline is attributed to diminished sea-borne export trade, in consequence of the opening of the Southern Mahratta Railway. In this Presidency a system of registration by a peripatetic agency, which is being tried experimentally, has not hitherto been financially successful, though it is stated to have proved a convenience in certain localities. The system is being given a further trial. The Government of India regards with approval all well-considered efforts to popularize or extend facilities for registration.

5. In the Lower Provinces of Bengal, the year's results show a very satisfactory increase both in registrations and in receipts. In the number of documents registered the increase amounts to 11·5, and in the receipts to 10·23 per cent., in the corresponding figures for the preceding year. The increase in registrations is fairly distributed between the optional and the compulsory class. A noticeable feature in the returns is the increase in deeds of sale of petty holdings and leases of agricultural land. The latter is, the Government of India is glad to observe, attributed to some extent to the conclusion of amicable arrangements between landlords and ryots in the Mymensing district, which has been unfortunately known as the theatre of long standing and cruel quarrels. The Lieutenant-Governor in Council notes that in the opinion of His Honour the Lieutenant-Governor the increase in deeds of sale of petty holdings is not due so much to the necessity for amicable relations of the owners as to increasing appreciation of the benefits of registration. The point is one, however, to which the Government of India is anxious that special attention should be paid by registering offices.

6. The Reports from the North-Western Provinces and Oudh for the last two years showed a decline in registration in the united provinces, which the Governor General in Council was disposed to attribute to defective organization. The Report under review shows an improvement on its immediate predecessors; but the Government of India agrees with the Lieutenant-Governor in thinking that there is still room for amendment. Last year there was in both Provinces a slight rise in the total number of registrations, the increase in the North-Western Province being due to a rise in optional transactions relating to immoveable property. This increase, however, may, in the opinion of the Local Government, be possibly due to the operation of the Transfer of Property Act, to which allusion has been made in the second paragraph of this Resolution. On the other hand, there was a decrease in the transactions affecting moveable property, the decline being attributed to a change in the system under which the sugar industry is carried on. Instead of making advances direct to the tenants who are cane-growers, sugar-refiners have, it is stated, begun to make advances to the landlords, thereby making one bond serve the purpose for which heretofore several were necessary. This change of system suggests matter for consideration from an agrarian as well as from a fiscal standpoint.

In Oudh there was some increase of registrations under all heads, the chief rise, however, being under the head of compulsory transactions affecting immoveable property, mostly deeds of mortgage and term leases. Mortgages of low value are, comparatively speaking, more frequent in Oudh than in the North-Western Provinces, but sales are fewer. The Lieutenant-Governor, it is observed, desires that the causes underlying this variation should be, if possible, ascertained; and the Government of India would be glad to learn in due time the results of any enquiry in this direction that may be instituted.

There was but slight variation in the total receipts and expenditure compared with the previous year, and the small increase in receipts which is shown was counterbalanced by a larger expenditure on improved administration.

7. The results of the year's operations in the Punjab show a slight increase in the number of compulsory, and a considerable decrease (46 per cent.) in the number of optional, registrations regarding immoveable property. The provisions of the Transfer of Property Act do not at present extend to the Punjab, and have, therefore, had no effect on the registration statistics of the year similar to that noticed in the case of the North-Western Provinces and Oudh. The net result was a small decline compared with the preceding year in the total number of documents registered. The principal causes assigned for the decline are the agricultural prosperity of the province and the liberal distribution of loans to agriculturists, which obviated the necessity of their contracting debts or selling property. There was, notwithstanding the decline in the number of registrations, a slight rise in the receipts of the department, while the increase in the expenditure from Rs. 88,039 to Rs. 1,00,117 shows that steps were taken to afford the people easier facilities for registration. Considerable changes were made during the year in the organization of the registering agency. The most important change was in the selection of gradually replacing official by non-official gentlemen at the head-quarters of five districts as sub-registrars, thus entirely relieving the Treasury Officers of those places of registration duties. Another important change was the employment, for the first time, of Tahsildars in the work of registration, the object of this measure being to exact some return from this class of officers for the allowances they receive from the Registration Department, and at the same time to give relief to Treasury Officers whose registration allowances have been withdrawn.

As to the special registrations under the provisions of section 89 of the Act impose work on the Registration Department, in respect of which it obtains no accession to its income, the Lieutenant-Governor considers that the Department should be relieved of this duty, and that it should be entrusted to Revenue officers. In the draft of a Bill to amend the Land Revenue Act now under consideration it has been proposed to have created the fees payable under the Land Immoveable Act, 1871, shall be forwarded to the Deputy Commissioners, who will enter them to be entered in the register of charges and disbursements of the officers in the record of rights for the estate and thereby relieve the Local Government of the duty that it is to be a simple and convenient procedure, and, if accepted by the Legislature should satisfy the objections of the Registration Department, which will no longer be concerned with such work bringing it no advantage.

8. In the Central Provinces there was a slight decline in the total number of registrations. The decline was due to a falling off in the number of compulsory registrations affecting immoveable property; while registrations of the optional class showed an increase. The decrease in compulsory registrations was chiefly owing to a falling off in the number of registrations of mortgages of immoveable property in the Hoshangabad District, while the increase in optional registrations was due to the rise in the number of transactions in the Jabalpur and Nimar Districts. Taking the results as a whole, it appears that registration has been stationary in the province for the past few years. Some important reforms, having for their object the provision of more efficient inspection, were either carried out or inaugurated. It is believed that these measures when completed will have a very beneficial effect on the operations of the department. The income of the department declined slightly (by 7 per

cent.), while the expenditure rose by 23·4 per cent., the increase in expenditure being due to the reforms referred to.

9. There has been an increase in British Burma in the total number of registrations, which rose from 8,176 to 9,498. The increase was general under all the principal heads of registration, but was most marked in the case of compulsory registrations of mortgage deeds affecting immoveable property, which advanced by 19·5 per cent. The value of such instruments rose from Rs. 40,62,208 to Rs. 71,48,817, the increase being chiefly due to the depressed state of trade in Rangoon and Akyab. The receipts and expenditure of the department rose by 23·92 and 24·32 per cent. respectively, the increase in expenditure being chiefly due to the strengthening of the establishment in the Rangoon Town office.

10. The operations of the Registration Department in Assam increased by 2,110 transactions. The increase was confined to transactions relating to immoveable property; the advance of 1,202 in the number of optional registrations being a satisfactory feature. As in the previous year, the most marked increase occurred in the Surma Valley districts of Sylhet and Cachar, in which more than five-sixths of the total number of transactions were effected. The receipts of the department increased by Rs. 2,780, and the expenditure, including refunds, amounted to Rs. 3,055 more than in 1883-84.

11. There was a slight rise in the total number of registrations in Coorg and there was a proportionate increase in the receipts and expenditure of the department, of 15·64 and 19·14 per cent. respectively.

12. In the Hyderabad Assigned Districts, exclusive of the increased work done in the Cantonment of Secunderabad, there was a satisfactory increase of 14·5 per cent. in the number of registrations under all heads. The districts of Amraoti, Buldana, and Ellichpur chiefly contributed to the increased business, which is due to the opening of additional sub-registry offices and to the introduction of increased special agency. The increase in the number of optional registrations shows, as remarked by the Resident, that the people are beginning to better appreciate the benefits arising from registration. The receipts and expenditure of the department increased by 12·4 and 14·6 per cent. respectively, the increase in expenditure being mainly due to the substitution of Sub-Registrars on fixed salaries for those paid by commission.

ORDER.—Ordered, that a copy of this Resolution be forwarded to the Local		
Madras.	Central Provinces.	Governments and Administrations marginally noted, and to the Foreign and
Bombay.	British Burma.	Revenue and Agricultural Departments
Bengal.	Assam.	for information.
N. W. P. and Oudh	Coorg.	
Punjab.	Hyderabad.	

Ordered, also, that the Resolution be published in the *Gazette of India*.

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Provinces.	Total number of registrations.	Receipts.	Expenses.	Percentage of receipts to expenses.	AGGREGATE VALUE OF PROPERTY TRANSFERRED BY REGISTERED DOCUMENTS										PROPORTION OF OFFICES TO AREA AND POPULATION																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
					Affecting immovable property.										Total of average value.	Area in square miles.	Population.	Number of Registrations.	Average area in square miles to each Registration (Three).	Average population to each Registration (Three).																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																													
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Madras	425,751	475,431	510,000	574,730	624,610	744,770	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,250	15,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A. P. MacDONNELL,
Offg. Secy to the Government of India.

GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

REPORTS ON THE STATE OF THE SEASON AND PROSPECTS OF THE CROPS FOR THE WEEK ENDING 5th JUNE, 1886.

GENERAL REMARKS.—Rain is reported generally from all parts of India, except Sind, the North-Western Provinces, and the Punjab. In the south of the peninsula, in Assam, and in the tracts east of the Bay of Bengal, especially at Chittagong, the falls have been heavy.

In most parts of Madras and in Mysore and Coorg prospects continue good.

Preparations for the *kharrif* are in progress in Bombay, Berar, and the Central Provinces, and have commenced in the North-Western Provinces and Oudh and in the Mooltan and Shahpur districts of the Punjab. The *rabt* in the Punjab is not yet completely gathered.

Agricultural prospects have improved in Rajputana, the water-supply in most States having been replenished by the recent rain.

Cultivation is going on well in Bengal, and the crops in the ground are thriving. The state and prospects of the crops in Assam continue satisfactory.

The public health is fair in Madras, Bombay, and the Central Provinces, and generally good elsewhere.

Prices, except in the Punjab, where they are fluctuating, are generally steady.

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
Madras—(June 5th)		
Bellary . . .	Average 1.56	Standing wet crops generally good; harvest second crop paddy, yield about average. Cattle-disease in two taluks.
Kurnool . . .	Average 1.22	Small-pox in three taluks, cattle-disease in one.
Ganjam . . .	Average 1.08	Slight small-pox in five and cattle-disease in three taluks; slight cholera. Average number employed on Chilka canal last week 156.
Kistna . . .	Average 3.46	River 2.5 feet over amount. Slight fever; cholera in eight taluks.
Chinglipur (Madras) . . .	Average 3.22	Standing crops good; harvest wet and dry grains, outturn below average. Cattle-disease in three taluks.
Coimbatore . . .	Average .54	Standing crops good, but <i>chulam</i> suffering from insects in parts of four taluks; harvest paddy and <i>chulam</i> , outturn average. Fever in one taluk, small-pox abating in another.
Tanjore . . .	Average last week since revised, 5.95; this week, 1.11	Standing crops good, except in parts where some garden crops damaged by late heavy rain and wind; harvest paddy and cotton, outturn below average. Slight cholera in one taluk.
Madurai . . .	Average last week since revised, .83; this week, .40.	Health of people and cattle generally good.
Malabar . . .	Average 3.06	Harvest third crop paddy, outturn below average. Fever in one slight small-pox in nine, and cholera in three taluks.
Travancore . . .	2.51	Small-pox and fever in parts.
<i>General Remarks.</i> —General prospects fair.		
Bombay—(June 5th)		
Kurrachee . . .	<i>Nil</i>	Weather cooler. River at Kotri on 7th, 13 feet 6 inches against 13 feet 2 inches on same date last year. Fever in nine and cattle-disease in three taluks; small-pox in three villages in district, seven remaining sick from former number. Prices.—wheat, red rice, and <i>bajri</i> in Kurrachee 26, 30 and 34, in Chhorabari <i>nil</i> , 40 and 36, in Shahbaidar 20, 42 and 42, and in Johi 32, 40 and 36 pounds per rupee, respectively.
Hyderabad . . .	Slight showers in Tando-Bago talukas.	Transplantation general. River at Kotri on 7th, 13 feet 6 inches against 13 feet 2 inches on same date last year. Fever in two, small-pox and cattle-disease in three talukas. High winds in Hyderabad. Wheat 25, <i>juari</i> 40, <i>bajri</i> 38, white rice 19, and red rice 30 pounds per rupee.
Ahmedabad . . .	1.79	Total rainfall 2.95. Agricultural operations continue. One death by lightning at Dhandnuka; public health good. Wheat 34 and <i>bajri</i> 31 pounds per rupee.

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
Bombay—Contd.		
Baroda . . .	36	Public health good. Small-pox and measles prevailing in Narsara. Crops in fair condition; preparations being made for <i>khurif</i> crops. <i>Bajri</i> 23, wheat 23, and rice 19 pounds per rupee.
Surat . . .	Rain in all talukas, maximum at Mithvi, 12½; minimum at Bardoli, 12; nil in Pardi.	Sowing commenced. Fever and cough in Bardoli taluka. <i>Juar</i> 33 and <i>ajali</i> 46 pounds per rupee.
Nasik . . .	Rain throughout the district; maximum at Igatpuri, 3.08; minimum at Baglan, 0.3.	Land being prepared for <i>khurif</i> sowing. Public health good. <i>Wheat</i> 31½, <i>bajri</i> 33½, and rice 17½ pounds per rupee.
Colaba (Bombay)	Rain from 2nd to 5th, heavy on 5th.	Total rainfall since 1st January 2.83, being .58 below average. Abnormal temperature 1° warm on 2nd, 3rd and 8th, 5° cool on 5th, nil on all other days; vapour in air excessive from 2nd to 5th, afterwards normal; abnormal wind from south-east on 5th, from north on 7th and 8th; wind normal on all other days; thunder and lightning on 4th and 5th.
Poona . . .	Barambadi, 2.84; Maval, .96; high shower in Junnar, Kel, Saur, Pundharpur, and Haveli talukas.	Good crop in Junnar, Bhimbadi, and Haveli, and small-pox in Haveli. Sowing of rice and <i>mahun</i> in progress in petha Maval and taluka Maval; in the rest of the talukas soil being prepared for sowing. <i>Bajri</i> 33 and <i>juar</i> 45; in Poona <i>bajri</i> 30 and <i>juar</i> 33 pounds per rupee.
Ahmednagar . . .	Jinkhed, 1.50; Rahuri, 1.13; Nagpur, .61; very light in the remaining talukas; Akola, nil.	Public health good. <i>Bajri</i> —maximum 60 pounds and minimum 39, <i>juar</i> —maximum 84 and minimum 48 pounds per rupee.
Sholapur . . .	Barsi, 2.04; Sholapur, 1.01; Madha, 2.00; Karmala, .93; Pandharpur, .60; Sangli, 2.19; Malshti, 1.3.	Land being prepared for sowing in Barsi, Mailha, Pandharpur, and Malshti talukas. <i>Juar</i> 59 and <i>bajri</i> 43 pounds per rupee.
Dharwar . . .	Rain at all stations, except Kerage and Hangal, varying from 4.42 in Nagpur to .03 in Mugnd.	Rice sowing in progress in western talukas, elsewhere land being prepared for sowing early crops. Public health good; slight cattle-disease in one village of Hangal taluka. Rice 23 and <i>juar</i> 40 pounds per rupee.
Kanara . . .	Karwar, 14.41; Kumbhta, 12.30; Yeshapur, 1.01; Hahyal, .20.	Total rain all 20.15. Sowing operations continue throughout the district. Anthrax in Supa and Kirwar; measles in Karwar; small-pox in Honawar and Mundgod. Common rice at Karwar 14, district average 14½ seeds per rupee.
Rajkot . . .	30	Weather fair. Public health generally good. Wheat 33, <i>bajri</i> 31, and <i>juar</i> 42 pounds per rupee. General Remarks.—Rain in all districts of the Presidency, excepting S. F. Preparation for sowing <i>khurif</i> crops in progress in most districts. Fever and small-pox in parts of nine and cattle-disease in parts of ten districts.
Bengal—(June 5th)		
Chittagong . . .	25.54	Prospects of crops somewhat damaged; <i>pumans</i> being reaped. Prices rising. Cattle-disease common; public health good.
Dacca . . .	0.59	Prospects of crops good; <i>amun</i> paddy being sown in lowlands. Public health good.
24-Pergunnas (Calcutta)	Nil	Sugarcane doing well; lands being prepared; sowing of jute and early rice begun. Public health generally good.
Moorshedabad . . .	Some rain	Wheat sowing. Sowing of rice still in progress. All prospects good. Price of rice stationary. Public health fair.
Rangpore . . .	0.43	Prospects of early rice and jute favourable; land being prepared for <i>aman</i> ; <i>chenna</i> harvested; <i>kana</i> ripe in places. Public health fair.
Burdwan . . .	0.01	Prospects of crops good. Public health good.
Bhagalpur . . .	2.33	Cultivation very forward; <i>bhadra</i> sowing in progress, but heavy rain in north has damaged some rice. Public health good.
Purneah . . .	2.15	Crops doing fairly. More rain wanted. Sowings being made wherever possible. Public health good.
Patna . . .	Nil	<i>Chenna</i> being cut; sugarcane looks promising. Public health generally good; a few cases of cholera reported from Barh town.
Durbhunga . . .	1.07	Large rain has done good to paddy and other standing crops; land being ploughed for <i>bhadra</i> sowings. Prices remain stationary. Public health generally good.
Hazaribagh . . .	Nil	Weather very close and sultry. Ploughing and sowing in progress all over the district; sugarcane doing well. General health good.
Cuttack . . .	2.46	Weather cloudy. Ploughing in progress; sowing commenced. Price of rice a little higher. Public health generally good; scattered cases of cholera in interior.

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
Bengal—contd.		
Midnapore . . .	<i>Nil</i>	Weather very hot. Cultivation still in progress. Public health good.
Khoolna . . .	0.39	Weather hot. <i>Ami</i> sowing progressing; <i>ammi</i> plants being ploughed. Public health good.
Dinagore . . .	0.0	Cultivation progressing well. Cholera reported from Panram and cattle-disease from three thana.
Pubna (Serajgunge) . . .	<i>Nil</i>	Prospects of crops good. Public health fair.
Gya . . .	0.01	Weather cloudy and threatening. Crops doing well. <i>cheria</i> being harvested. Prices moderate. Public health generally good.
Chumparan . . .	<i>Nil</i>	Indigo and other standing crops good; lands being prepared for <i>baudou</i> sowing. Prices stationary. A few cases of small-pox reported.
<i>General Remarks.</i> —Rain, though not general, fell in most districts during week; in Clatagong it was excessive and caused some damage to crop prospects. Cultivation generally going on well; <i>ami</i> rice and jute already sown in many places and thriving well; sugarcane and indigo prospects also favourable. Price of rice generally continues stationary. General health good.		
N.-W. Provinces and Oudh—(June 5th)		
Benares (June 7th)	<i>Nil</i>	Weather off and on cloudy. Supplies plentiful. Prices steady. General health good.
Gorakhpore (" ")	Slight in Sadr	Weather close and cloudy. Preparation of land for <i>khari</i> sowings in progress. Very slight rise in prices. Health fair.
Fyzabad (" 8th)	<i>Nil</i>	Weather hot, with west wind. Prices unchanged. Supplies ample. Health of men and cattle good.
Lucknow (" 7th)	<i>Nil</i>	Weather very hot. Supplies sufficient. Prices almost stationary. General health good; no cattle-disease.
Rae Bareilly (" ")	<i>Nil</i>	Weather cloudy and sultry. Sugarcane and <i>jetwa dhan</i> are being ploughed. Supplies ample. Prices steady. Some cases of cholera reported from taluk Dighinaganj.
Partabgarh (" 8th)	<i>Nil</i>	Weather cloudy, with variable wind. Markets well supplied. Prices nearly stationary. Slight cholera in Patti tahsil, but health generally good.
Allahabad (" ")	<i>Nil</i>	Weather very hot and dry. Preparation for <i>khari</i> commencing. Markets well supplied. Prices almost stationary. General health good.
Cawnpore (" ")	Slight showers at Akbarpur	Weather close and cloudy. <i>Rabi</i> harvested. Prices steady. Condition of people good; cattle-disease in Bilhaur and Akbarpur.
Parakhabad (" ")	<i>Nil</i>	Indigo and cane promise well. Prices steady. Health of people fair.
Sitapur (" ")	<i>Nil</i>	The weather has cleared up. The grain is being rapidly removed from the <i>Khaliyans</i> . Public health and condition of cattle good.
Bareilly (" ")	<i>Nil</i>	Winds westerly, weather cool. Prices rising. Public health normal.
Banda (" 7th)	<i>Nil</i>	Weather cloudy. Prices easy. Public health good; cattle-disease in two villages.
Ballia (" 8th)	6.0 in Raura tahsil	Weather close. Prices steady. Health good.
Kumaon (" ")	<i>Nil</i>	Weather fine. <i>Khari</i> weeding commenced. Prices stationary. Five deaths reported from <i>malaria</i> ; measles in district; cattle-disease on decrease.
Agra (" 7th)	<i>Nil</i>	Weather cloudy. Prices steady. Health good.
Jhansi (" ")	1.20	Weather cloudy. Land being prepared for <i>khari</i> cultivation. Prices steady. Health of people good; slight cattle-disease.
Meerut (" 8th)	Slight rain in Meerut on 5th.	Weather hot, with westerly wind. Cane and indigo germinated well. Supplies ample. Prices stationary. Health good.
<i>General Remarks.</i> Weather continues unsettled. <i>Khari</i> ploughing in progress in some districts. Supplies ample and prices generally steady. Public health fair, a few cases of cholera reported, also cattle-disease.		
Punjab—(June 5th)		
Hissar (June 8th)	<i>Nil</i>	Health good. Prices slightly rising.
Delhi . . .	<i>Nil</i>	Health good. Prices almost stationary.
Umballa . . .	<i>Nil</i>	Health fair. Prices rising. Prospects of current harvest good.
Jullundur . . .	<i>Nil</i>	Health good. Prices stationary. Prospects of current harvest good.
Ferozepore . . .	<i>Nil</i>	Health good. Prices rising.
Sialkot . . .	<i>Nil</i>	Health good. Prices stationary. Prospects of current harvest comparatively good.
Lahore . . .	<i>Nil</i>	Health good. Prices stationary. Prospects of current harvest below average.
Mooltan . . .	<i>Nil</i>	Health good. Prices falling.
Rawalpindi . . .	<i>Nil</i>	Health good. Prices stationary. Prospects of current harvest average.
Shahpur . . .	Slight rain	Health good. Prices rising.

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
Punjab—<i>contd.</i>		
Dera Ismail Khan	<i>Nil</i>	Health good. Prices stationary.
Peshawar	<i>Nil</i>	Health fair. Prices of wheat slightly rising, other grains falling. <i>General remarks.</i> —No rain has fallen, except in Umbaila and Sadpur districts. General health good; small-pox in the city of Dera Ismail Khan. Prices rising in the Hissar, Umbaila, Feroz pore, and Shahpur districts, and coming in the Mooltan and Peshawar districts, elsewhere stationary. <i>Kharif</i> sowing in progress; <i>kharif</i> sowing commenced in the Shahpur and Mooltan districts.
Central Provinces— (June 5th)		
Nagpur	52	Weather hot and cloudy. Ground being prepared for sowing. Fever and small-pox in places. Prices steady.
Jubbulpore	11	<i>Kharif</i> ploughing commenced. Health fair. Prices steady.
Saugor (June 8th)	<i>Nil</i>	Winnowing nearly completed. Small-pox and cattle-disease common. Prices steady.
Seoni	74	Weather cloudy. <i>Kharif</i> ploughing in progress. Cattle-disease in places. Prices rising slightly.
Hoshangabad	Slight rain	Weather hot and cloudy. <i>Kharif</i> ploughing commenced. Small-pox and cattle-disease in places. Prices stationary.
Khandwa	87	Weather cloudy and close. <i>Kharif</i> preparations continuing. Health fair. Prices unchanged.
Rupur	<i>Nil</i>	Weather cloudy and hot. Ground being prepared for sowing. Cholera continues. Cattle-disease alarming. Prices steady.
Sambalpur (June 5th)	391	Weather cloudy and stormy. Sowing commenced. Cholera in places. Prices steady. <i>General remarks.</i> —Weather cloudy and hot with some rain. <i>Kharif</i> ploughings in progress, and sowing commenced in Sambalpur. Cholera continues in Raipur; fever and small-pox in power. Prices steady.
British Burma— (June 5th)		
Akyab (June 5th)	1110	Total rainfall 973. Public health good; cattle-disease in two cycles.
Bassein	1077	Total rainfall 1001. Public health good; cattle healthy.
Rangoon	705	Total rainfall 1720. Public health good; cattle healthy.
Amherst (Moulmein)	904	Total rainfall 2701. Public health good; cattle-disease slight.
Pegu	1300	Total rainfall 2121. Prices low and health of cattle good.
Henzada	807	Total rainfall 1427. Cholera and cattle-disease common in one township.
Prome	407	Total rainfall 644. Slight cholera in Prome town; cattle healthy.
Tonghoo	282	Total rainfall 1200. Public health good; cattle healthy.
Thayetmaw	225	Total rainfall 645. Public health and health of cattle good. <i>General remarks.</i> —Cholera in three districts, elsewhere public health good; cattle-disease of a mild type in nine districts.
Assam—(June 5th)		
Gauhati	582 during week ending 5th instant.	Weather hot. Cholera deathling both in Sadh station and district; cattle-disease still in some measure. Prospects of crop good.
Solhet	701	State and prospects continue in the same way.
Cachar	184	Weather warm. Ploughing for <i>kharif</i> and rice crops continues. Government 13,000 lbs. of rice per rupee. Four deaths from cholera from Kargura and one from Harikandi reported. Prospects of crop good.
Dibrugarh	87	Weather equable. Prospects of crop good. Cholera abating in North Lakhimpur; public health good.
Mysore and Coorg— (June 5th)		
Bangalore	General rainfall in Civil and Military Stations 390; Bangalore district, 184; Kolar, 13; Tumkur, 218. 212	Standing crops in good condition; prospects of season favourable. Public health generally good. Prices slightly risen in the Mahad district.
Mysore Mercara		Ploughing and sowing of rice in active progress. Slight fall in prices since last week. Prospects of season good. Public health fair.
Berar and Hyderabad—		
Amraoti (June 6th)	42	Weather cloudy. Fields are ready for <i>kharif</i> sowings. Wheat 22 and <i>juari</i> 26 seers per rupee.
Akola	129	Preparations for <i>kharif</i> sowings continuing.
Hyderabad	Average 227	Total rainfall since 1st January 717. Reaping of <i>ratu</i> crops continues. Recent rainfall slightly damaged standing <i>tharu</i> crops. Ground being prepared for sowing of <i>kharif</i> crops. General health fair. Monsoon set in on 6th instant. Prices—wheat 15, coarse rice 11½, white <i>juar</i> 20½, yellow <i>juar</i> 21½, and <i>thu</i> 14½ seers per current sicca rupee.

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
Central India States—(June 9th)		
Indore	1.72	Total rainfall 6.68. Monsoon apparently set in.
Gwalior	Nil	Health good. Weather cloudy; heat intense.
Sutra	Nil	Weather seasonable. Health good.
Nagnuch . . . . .	.43	Weather warm.
Goona . . . . .	.17	Few cases of small-pox in Goona city, otherwise health good.
Agar . . . . .	.65	Health and prospects good.
Nowgong . . . . .	.20	Total rainfall .80. Weather cooler and no immediate prospects of the monsoon. Health good.
Bhopawar (Manpur)	Slight in Dhar and Manpur.	Weather cloudy. Health good. Prices of food-grain stationary.
Rajputana—(June 9th)		
Abu (June 9th)	.75	Weather again clear and cooler.
Sirohi (" 6th)	3.85	Tanks filled; wells good. Health good. Weather fine and clear again and cooler.
Marwar (" 4th)	2.83	About two months' fresh water brought into tanks by this week's rain. Health much improved. Weather cooler. Prices rising slowly.
Kherwara (" 6th)	2.00	A few tanks fuller; well low. Indian-corn sowing begun at places. Health good. Prices steady. Heavy thunderstorm, with rain and floods on 1st; weather much cooler.
Meywar (" 5th)	1.26	Tanks and wells low. Health very good. Prices falling. Weather cloudy.
Pertabgarh (" ")	Very slight rain	Weather cloudy. Some water in wells. Health good. Prices rising.
Harowli (" ")	Deoli, 2.37; Tonk, 1.20	Weather cloudy and rainy. <i>Kharr</i> operations commenced. Health good.
Jhalawar (" 4th)	Jhalapatan, 1.75	Rain general throughout State. Prices slightly rising. Ploughing commenced. Health good.
Kotah (" ")	4.32	Health good.
Ajnere (" 8th)	Rain throughout district.	Weather cloudy. Small-pox in Beawar. Ploughing operations commenced.
Jeypore (" ")	.31	Prices steady. Health fair.
Kerrowlee (" 5th)	.73	Tanks and wells decreasing. <i>Makka</i> and cotton being cultivated. Health good. Prices steady. Weather seasonable.
Ulwar (" 8th)	Average of seven tahsils, .28	Health good. Prices steady.
Bickamir (" 5th)	1.85; Sujangurh, 2.05	Fever and small-pox prevalent. Prices low. Weather cloudy and hot.
Nepal—(June 3rd)		
Katmandu (June 4th)	1.10	Unusual rain has been slightly injurious to Indian-corn lately sown.

No. ⁹⁹
29-2.

Extract from the Proceedings of the Government of India in the Revenue and Agricultural Department (Meteorology), dated Simla, 10th June 1886.

Read the following:—

Memorandum on the Snowfall of the Himalaya and Western Mountains to the end of April 1886.

The following is a summary of the reports received up to date.

The Deputy Commissioner of Dera Ismail Khan reports that the snowfall on the Suleiman range was unusually heavy in the months of January, February and March. The snow line, on the hills beyond the border generally, was lower than in average seasons. The snow remained on the higher ranges through February, and melted towards the commencement of March. After the beginning of March, there was a fresh fall on the Takht-i-Suleiman and the higher ranges, but it melted towards the middle of the month. The season was a severe one with unusual cold.

The report of the Deputy Commissioner of Bannu is to the like effect. The fall of snow on the hills near Bannu in the months of January, February and March was somewhat heavier than usual, but not sufficiently to call for any special remarks.

The Deputy Commissioner of Kohat reports a good fall of snow on the Safed Koh, and mountains and plains of Tirah, in January, to the depth of about 6 feet on the Safed Koh, and 1 foot on the Tirah plains. The Assistant Commissioner of Thull further reports an unusually heavy fall on the 15th and 16th February, which he estimates at from 10 to 15 feet on the Spinghar, (Safed Koh), 3 feet on the Tirah plains, and 1½ to 2 feet in the Kurram valley.

He considers that the snowfall of the season has been exceptionally heavy. There was a further good fall in March on the Safed Koh and Tirah and Ali Khel Meadows, but the heavy rain, which followed, washed it away from the lower hills. There were also two falls in April; on the 1st and 2nd, and again on the 21st and 22nd, on the Spinghar and other high mountain ranges.

The Deputy Commissioner of Peshawar, reporting on the Khyber and Tirah (Afridi) hills, says that the heavy rainfall of the 18th–20th January in the Peshawar valley (28 inches), was accompanied with a fall of 2 feet of snow on the Likka and other hills of the Larghur range, and the fall must have been proportionally heavier on the higher Bana, Tirah, and Morgha ranges. This was succeeded by further falls on the 22nd–24th and again on the 31st January and 1st February, and on the 15th to the 17th February. This last fall was 3 feet deep on the Landi Kotal, and 2 feet at Ali Masjid.

On the 17th and 18th March, a slight fall took place on some of the higher ranges, but it melted soon afterwards.

With respect to the hills adjacent to the Euufzye Subdivision, the Assistant Commissioner sends a return of the total fall, on the several hills, during January and February, varying up to 9 feet, the heaviest being in the Utman Balak Subdivision on the Banrah range.

At Murree, the total fall of snow in January is reported as 8 feet 8 inches, and on the hills adjacent to Kohuta as 5 feet, in February, as 5 feet 8 inches at the former, and 9 feet on the latter; in March as 6 inches only at the former and 2 feet on the latter. In April the falls were insignificant.*

Sir O. St. John reports, from Cashmere, that the first snow fell on the Pir Panjal on the 31st September, i.e., 15 days later than in 1884. There were slight falls only in October and November, and a further fall from the 16th to the 18th December appears not to have been very heavy. The latest report, dated 16th January, reports about 3 inches of snow on the 1st and 5th of the month.

* In the corresponding months of 1885 it was 12 feet 3 inches in January, 7 feet 7 inches in February and about 8 inches in March at Murree; and on the Kurram hills adjacent to Kohuta, 6 feet in January, 5 feet in February, and none later. At Murree, therefore, the snowfall of 1885 exceeded that of the present year, and, excepting in February, the same at Kohuta.

As has been the case in previous years, the Resident Commissioner of Kulu sends very full and detailed reports on the depth of the snow, and gives a monthly tabular return of its thickness on the different passes. The following is a summary of this table for some of the principal passes in Kulu and Plach:

Name of Pass	Elev. Fc.	Depth of snow at the end of the month.			
		January. Fc.	February. Fc.	March Fc.	April. Fc.
KULU ...	Rotang	13,000	12	10	7
	Hamta	14,500	12	10	7
	Babbu	16,000	4	4	4
PLACH ..	Basleo	10,500	4	4	2
	Jalori	19,000	3	2	3

The first important fall occurred on the 3rd January, when the valley was under snow down to 4,900 feet. This melted rapidly up to 6,500 feet, and the snow line remained about that level till the 22nd January, when another heavy fall brought it down to 4,500 feet. At the end of the month, the lowest snow was at 5,500 to 6,000 feet. Both in Kulu and Plach, the season was mild. It remained so during February; and at the lower elevations, there was little rain or snow; early in the month, and again on the 20th, the snow fell down to 5,000 feet; but, by the 1st March, it was certainly not lower than 7,500 feet.

The snowfall of March was normal. There were falls on the higher ranges, and, as late as the 29th, stormy weather whitened the hills down to 7,000 feet. But, on the whole, the weather was mild. The Hamta pass was closed throughout the month; but a few Lahaulis crossed the Rotang, though the pass was not open to traders; and the lower Babbu pass, though crossed by pedestrians, was not passable to laden coolies or animals.

A somewhat remarkable dust cloud enveloped the whole valley on the night of the 30th March, and lasted through the 31st, in such density, that the sun was not visible at any time of the day. A similar occurrence is reported from Lahaul.

In April, the weather in the valley was remarkably mild, though there were several snowstorms in the higher ranges, and there was a considerable amount of fresh snow. On the 23rd, there was a great snowstorm on the Rotang, and 4 feet of snow fell at Koksar bungalow.

The Superintendent of the Kailang Observatory in Lahaul, the Revd. A. W. Heyde, writes on the 12th March:—"The present winter has been so far about a normal one, though there has been much cloudy weather. Since the 17th December we have had 27 days with snow, but not more than about 7 feet down here at Kailang (10,500 feet)."

In a subsequent letter dated 6th April: he says: "Since the middle of March we have had very rough weather and much snow; especially on the 19th, 30th and 31st." Describing the dust cloud above noticed, he says: "On the 30th in the afternoon, while the snow was densely falling, the whole valley was suddenly lit up for about 1 hour or more, by a gloomy yellow light, which was so strong that the white walls of the room looked quite yellow. When it had cleared up next morning, the fresh snow was everywhere up to the height of more than 15,000 feet covered with some yellowish dust-like substance."

In April the weather in Lahaul, unlike that in Kulu, was remarkably 'rough,' wet, and cold with much wind. Snow and rain fell on not less than ten days; from the 9th to the 12th, on the 16th, and finally, daily, from the 20th to the 24th.

Up to the 8th May (the latest date of report), it was extremely cold, and the 5th, 6th and 7th were rainy days. But Mr. Heyde remarks that the spring is more favorable for agriculture than that of last year; the snow having so far disappeared that the fields could be ploughed a month earlier than in 1885.

The Deputy Commissioner of Simla gives a return of the snowfall at Simla, Korkhai, and Kotgurih and Kilba in the Satlej valley, for the 3 months, December to February, as follows :—

		December 1885.	January 1886.		February 1886.	
			ft.	inch.	ft.	inch.
Simla	...	Slight	3	5	0	10
Korkhai	...	Do.	1	1	0	9
Kotgurih	...	Do.	1	4	0	10
Kilba	...	1 ft.	12	0	5	7

The Deputy Conservator of Forests, Bashahir Division, who resides at Kilba, sends the following report dated 24th March :— “The depth of snow on the passes from the North-Western Provinces, Spiti, and Tibet is reported to be unusually deep. Above Kilba, 10,000 feet elevation, the depth of snow was measured ten days ago, and was over 4 feet.

I measured myself on a pass (9,000 feet elevation) from Sarparu to the Ganwi valley in Pundrabis, and found it 3 feet 6 inches in depth. At present the snow lies at 7,000 feet on the northern slopes, and about 8,000 feet on the southern.

At Mussoorie, 7 inches of snow fell on the 4th January, 6 inches on the 1st, and 1 inch on the 7th February: all other falls being insignificant.

The reports of the Senior Assistant Commissioner of Kumaon on the snowfall on the Johar, Dárma and Byams passes, are tabulated as follow :—

	December 1885.	January 1886.	February.	March.	April.
Johar pass	1 ft.	2 feet.	2 feet.	2½ feet.	2 feet.
Darma and Byams	?	?	?	2½ „	?
Neighbouring ranges	?	?	2½ feet.	3 „	2½ feet.

The Deputy Commissioner of Darjeeling reports 1 foot 3 inches on the Sikkim passes, Jelep, Cho, Guathin, Donkia, Thruka, Giagong, and Noko in October 1885, 1 foot 6 inches in November, 4 feet 6 inches in December, 2 feet 1½ inches in January, 1 foot 6½ inches in February, and 3 feet 5 inches in March. The accuracy of the measurement in January and February, (to fractions of an inch), taken in conjunction with the remarkable uniformity of the fall, on all the passes, in every month, is a circumstance to be noted.

On the whole, it appears that, although there has been a considerable amount of snow on the North-Western Himalaya and the hills of Eastern Afghanistan during the past winter and spring; and in January and February, greater than usual, there has been less than last year, especially in the spring months; and it is certain that the snowy range, as seen from Simla in May, and now at the beginning of June, is less thickly covered, than in 1885, and the snow does not extend to such low levels.

At the same time the winds on the west coast of the peninsula have been less northerly; and, during the month of May, those in the Punjab have been decidedly more southerly and easterly than usual. On the Bombay side, therefore, there seems no present reason to anticipate a retardation of the monsoon.

The atmospheric pressure during May has been slightly below the average on the plains of the Punjab, Ruyatma, Central India, Bombay and the Central Provinces, but above it on the hills, on the plains of the North-Western Provinces and Bengal, and most so in Bengal. This is favourable to the advance of the easterly branch of the monsoon, and generally to southerly winds; on the assumption, which experience renders probable, that the same general conditions continue to hold. As compared with the average of former years, the barometer is lowest in Bombay and on the west coast.

HENRY F. BLANFORD,

Meteorological Reporter to the Govt. of India.

Simla, 4th June 1886.

RESOLUTION.—Resolved that the paper be published in the Supplement to the *Gazette of India*.

C. J. LYALL,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL
OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND
REGULATIONS UNDER THE PROVISIONS OF THE ACT OF
PARLIAMENT 24 & 25 VIC., CAP. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 9th June, 1886.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

His Honour the Lieutenant-Governor of the Punjab, LL.D., K.C.S.I., C.I.E.

His Excellency the Commander-in-Chief, Bart., G.C.B., C.I.E., V.C.

The Hon'ble C. P. Ilbert, C.S.I., C.I.E.

The Hon'ble Sir S. C. Bayley, K.C.S.I., C.I.E.

The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.

The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.

Colonel the Hon'ble O. R. Ne-march.

The Hon'ble J. W. Quinton.

The Hon'ble W. W. Hunter, C.S.I., C.I.E., LL.D.

Colonel the Hon'ble W. G. Davies, C.S.I.

The Hon'ble Rana Shankar Bakhsh Singh Bahadur, C.I.E.

OUDH RENT BILL.

The Hon'ble Mr. QUINTON moved that the Bill to consolidate and amend the law relating to rent in Oudh be referred to a Select Committee consisting of the Hon'ble Mr. Ilbert, the Hon'ble Sir S. Bayley, the Hon'ble Sir A. Colvin, the Hon'ble Mr. Hunter, the Hon'ble Rana Shankar Bakhsh Singh Bahadur and the Mover. He said:—

"I had intended, in accordance with the wishes of the Government of India and that of the North-Western Provinces and Oudh, to make this Motion during the last Calcutta session, but was prevented from carrying out my intention by the unfortunate illness of our hon'ble colleague Rājā Amir-ud-dowlah Bahadur. It was obviously desirable that in discussing the principles and provisions of this Bill the Council should have the assistance of a representative of the taluqdārs, whose interests are largely affected by it. And in fairness to them the Motion was suspended in the hope that the illness of Rājā Amir-ud-dowlah would be but of short duration. Unhappily my hon'ble friend is still unable to attend our meetings. In his temporary absence the Legislative Council has been reinforced by the addition of Rana Shankar Bakhsh Singh, Vice-President of the Taluqdārs Association and owner of a large taluqa in Southern Oudh, whose knowledge and experience will, I have no doubt, be of great value to us in carrying the Bill through its remaining stages. I hope also that we may still have the benefit of Rājā Amir-ud-dowlah's attendance either here or at the consultations on the Bill which Sir Alfred Lyall hopes to hold at Lucknow before it is finally read.

"The interval that has elapsed has given members an opportunity of making themselves acquainted with the contents of the lengthy papers which have been printed and circulated, and of appreciating the motives and reasons which have induced Government to recommend legislation on behalf of the Oudh tenantry. It has also enabled the taluqdārs to assemble and discuss the measure, and to inform the Local Government of their views

respecting it. When moving for leave to introduce the Bill I dwelt at some length on the necessity for legislation of the nature proposed, and even at the risk of repetition I shall again briefly invite the attention of Council to the prominent facts which in the opinion of the Government leave it no option in the matter.

"The province of Oudh is very densely populated; the bulk of the population live by agriculture, manufactures being few and inconsiderable; 79 per cent. of the cultivated area is occupied by tenants-at-will holding farms averaging something under five acres, and liable to annual enhancement of rent and to eviction at the mere will of the landlord; and of the total number of cultivators only one in 200 enjoys any protection against these incidents of tenure. The landlords consist of 346 taluqdars and 180,000 proprietors of the zamindari class. Tenants with rights of occupancy under the Oudh Rent Act are 8,117, and tenants-at-will 1,800,000. During the last 15 years there has been a rise of rents which varies in different districts but averages for the province 24 per cent., the average rise of prices during the same period having been about the same. The power of ejectment has been freely exercised by the landlords, the number of notices having risen from 23,600 in 1876 to 92,692 in the current year. An examination of 28,477 tenancies in different districts made three years ago showed that of that number there were only 5 per cent. in which the component fields and the rent had remained materially unchanged during the last fifteen years, and that in 46 per cent. the tenants were all new-comers. The provisions of the existing law which allowed tenants to claim compensation for improvements on enhancement of their rent have remained a dead-letter, and those which gave a similar right on ejectment have been largely evaded by contracts.

"When bringing these facts to the notice of Council I stated that they showed that the cultivation of the soil was carried on by a body of raiyats holding under a tenure which might be described as a yearly tenancy in its simplest and most rudimentary form, and I declined to waste your time by attempting to prove, what is notorious to all who have thoughtfully considered the subject, that this form of tenure when the pressure of population is severe is the one most discouraging to agricultural efficiency and most likely to lead to the impoverishment and degradation of the cultivators of the soil.

"It has, however, been urged as an objection to the Bill that the condition of the tenantry has, on our own showing, improved, and that we have made out no case to justify legislation. On this point, I am quite prepared to join issue.

"As regards the improvement in the condition of the tenantry, special causes have been at work to bring about this result, the continued operation of which can no longer be relied upon. The substitution of the British for the Native Government after the pacification of the province enabled every man to enjoy the fruits of his industry in peace, and thereby gave a great stimulus to production. Good roads were everywhere opened out, and of late years railways have brought tracts hitherto practically inaccessible within reach of the markets of the East and West. The cultivation of waste land has extended with great rapidity. The latest returns available give reason for believing that the increase since settlement is some 20 per cent. These causes have efficiently promoted the prosperity of the province, and have enabled the tenantry, whose rents were largely regulated by custom, to share in it.

"But, as I have already stated, they cannot be expected to give rise to the same progress in the future as they have done in the past.

"The establishment of our Government substituted for the good old rule of each party taking and keeping what he could a strict reign of law, which affords security to landlords as well as tenants, but arms the former with the whole power of an irresistible Land Act, and, as always happens in such cases, gives the advantage in the struggle to the richer and stronger of the two parties. A generation has grown up accustomed to the benefits of British government; the main lines of roads and railways throughout the province have been completed; the area of cultivable waste land is rapidly diminishing and customary rents are fast disappearing. We have reached the

summit of the watershed, and have to guard against a facile descent in the opposite direction. Moreover, the progress testified to by no means excludes exceptional cases of great hardship, which tend to increase in number.

"Here I may fitly reproduce a passage from the report of Mr. (now Sir) H. Davies quoted by Mr. Strachey when introducing the present Oadh Rent Act in 1867:—

"The doctrine that rents paid by labourers rising their wages from the soil cannot safely be exposed to competition, as expounded by Mr. J. S. Mill, is now generally accepted by political economists. It is seen that a rapidly increasing population is soon straitened for food, that they will contend fiercely among themselves for the payment of the rent of land from which alone in a purely agricultural country they can extract it; that such contention, whilst nominally and transiently raising rents, must lead to impoverishment and reduced wages; that with increasing poverty the secondary wants necessarily diminish, self-respect vanishes, whilst the multiplication of numbers is accelerated; that the end is to the landlord a shrunken rent roll and deteriorated property; to the country a degraded and desperate peasantry. It is admitted, on the other hand, that rents paid by capital may safely be left to competition, that sensitive fund giving timely and early warning of over-extension to the investor. Contending, not for bread, but for the fair interest of his money, he, unlike the starving cultivator, can and will separate from the soil. Whence is suggested an answer to the question often asked 'why allow competition for grain and not for the rent of land paid by peasants?' Because competition for grain has no tendency to multiply the number of mouths to be fed; but, by adjusting its price in proportion to the supply, rather puts people on their famit; whereas competition for rackrent leases, by encouraging false confidence, by eventually lowering wages, and by minimising the prudential checks, has a direct tendency to stimulate the increase of population and in course of time to lessen the fund for its support."

"This is a forcible statement of an economic deduction the soundness of which is unassailable. If any one wants an inductive proof of the proposition, he has but to study the history of the land question in Ireland for the last 50 years, and to consider the results there brought about by the operation of competition on a teeming agricultural population.

"I would ask Your Excellency and hon'ble members bearing in mind this theoretical argument to weigh the facts stated in the following passages from Major Erskine's report:—

"126. Although I am able to say that the condition and prosperity of the cultivating classes as a body have not yet been injuriously affected under the administration of Act XIX of 1868, I cannot regret the number of these classes, the size of their farms, the incidence of the rent they pay and the insecurity of their tenure without feeling that, as the inevitable multiplication of their numbers proceeds and competition for the land becomes more keen, their condition will under the present law deteriorate, and that it is advisable to take some action on their behalf. And I am strongly of opinion that any remedial measures which are adopted should be such as will protect all cultivating tenants as a body, and not merely those of certain castes or classes, those who are descended from former proprietors or those who have been in occupation for certain periods arbitrarily fixed. Interference is justified on the broad ground that it is imperatively necessary in the interests of the general community that the complete efficiency of the agricultural industry be maintained, and that that efficiency is under present conditions seriously threatened.

"127. The ordinary tenant now holds from year to year; he is liable to be called on each year to agree to an enhancement of his rent on pain of summary eviction if he refuses the enhancement; and he is moreover liable to summary eviction at the end of any year at the mere caprice of the landlord. The landlord need not give him notice to quit until the 15th April; and unless he is in a position to contest the notice, he must vacate the land by the 15th May or he may be forcibly removed. From all parts of the province it is said that landlords throw obstacles in the way of tenants seeking to make improvements, and withhold their consent to the construction of these works until the tenant contracts himself more or less out of the provisions of the Rent Act which secure him compensation. When the rent is a produce-rent, it is regulated by custom; but when it is payable in money it is mainly determined by competition, by which I do not of course mean that the lease of the tenancy or field is put up for auction (though even that is spoken of by the Deputy Commissioner of Fero), but that the landlord ordinarily takes as high a rent as he can get: it is to be feared that, except in rare instances, the landlord does not trouble himself to ascertain the relative productive capacity of his fields and to fix the rent of each on this basis; he treats the tenancy as a whole, and demands what he thinks the tenant will pay or what he thinks another man will give.

"128. Under a system which places him in such circumstances as are above described the Oadh peasant has little incentive to exercise self-denial, prudence and thrift. It may be true that even with greater security of tenure he would still be deficient in those character-

istics; that he would still adhere to his old habits; indulge without restraint his sexual instincts and embarrass himself by extravagant expenditure on marriages, &c.; but at least he should be put in a position in which it would be to his plain advantage to be prudent and economical. Such a position he does not now occupy.[^]

"It has also been argued that the evils for the removal of which we propose to legislate are apprehended, not actual, and that until they come into existence legislation is unwarranted.

"If the evils were in themselves slight, or if the apprehensions of their approach rested on insufficient grounds, then no doubt there would be some force in the arguments; but I hope I have satisfied the Council that neither of these conditions exist in the present case, and that we have only too strong grounds to dread the approach of serious evils, and to believe that, if we do not interpose, their arrival at no distant date is a matter of certainty.

"If this be so, it is surely the duty of Government to take timely measures to keep out the deluge before the country is submerged—to lay by a store in the present plentiful years against the famine which awaits us. In homely phrase, prevention is better than cure. And measures adequate to ward off the disaster will fall far short of those necessary to remedy the calamities caused by it if we allow it to fall upon us.

"In this connection I would read to the Council an extract from a memorandum by Mr. Quinn, written when Commissioner of Sitapore, which is referred to in Major Erskine's report. Mr. Quinn is an officer of sound judgment and long experience in Oudh, and the division from which he wrote consists of one district the lowest as regards density of population, and of two in which the population to the square mile is under the provincial average:—

'I myself am convinced that the keen competition for land which is essential to rack-renting is only commencing, but will rapidly develop. Twenty years hence the whole of the cultivable land in Oudh will probably be under cultivation. An ejected cultivator will then become a ruined man. I would earnestly protest against waiting till the cultivator has reached the destitute condition of the Bengal (he might more fully have said *Behar*) raiyat, and till landlords have come to live up to an unduly inflated income. Now, when class animosities have not sprung up between landlord and tenant, and when the cultivator is still fairly prosperous, is the time for such a moderate reform of the rent law as may ward off the evils which alone the backward state of Oudh has hitherto kept in check.'

"In Southern Oudh, where population is more dense and the area of waste land is much smaller, the state of things dreaded by Mr. Quinn is within very measurable distance, competition rents are rapidly superseding those regulated by custom, and in one district there has been a rise of 49 per cent. in rents in 15 years.

"No candid observer of these facts can accuse the Government of precipitation in initiating the present proposals.

"I stated in my speech on the introduction of the Bill that most of the taluqdars were understood to admit that under the circumstances some amendment of the existing law in the direction of the draft Bill is expedient, necessary and inevitable, and that I had grounds for anticipating that they would acquiesce in a measure of this kind. Since that speech was made the taluqdars have met and considered the Bill, and in their corporate capacity have accepted its main principles. This acceptance was intimated to His Honour the Lieutenant-Governor in a reception of taluqdars held by him at Lucknow in the end of April, and was formally notified to the Secretary to Government in a letter of the 24th of that month, giving cover to a memorial which will be found at page 9 of No. 2 of the printed papers on the Bill. As the memorial is short, I shall make no apology for reading it:—

'May it please your Honour,—We, the taluqdars of Oudh, beg to submit a translation of the proceedings of a Meeting of the Committee of our Association held on the 22nd April, 1886, in deliberation on the Oudh draft Rent Bill, from which it will appear that we accept in their entirety the rules of seven years' lease and of the limitation of enhancement to 6½ per cent. We, however, beg to suggest that land given on clearance lease, *chajja jungle*, new alluvial land, *parti*, and land subsequently to this Bill rendered cultivable by landlords at their own expense, should be exempted from the provisions of the above clauses.

'We would also, with due respect and deference, draw Your Honour's attention to sections 38 and 129 of the Bill, which, in our estimation, contain provisions derogatory to our position

and rights, and which also are, in our opinion, unnecessary for the protection of our tenants. These sections we wish to see removed from the Bill.

‘We further respectfully beg to be allowed to point out what seem to us certain defects and errors in the Bill, which we consider should be removed, and also to suggest some useful provisions which may be inserted therein.’

“It confirms what I then stated—and before going on with my argument I may add that on the points to which exception is taken we are prepared to allow the fullest weight to the objections consistent with securing the objects at which we aim, namely, moderate stability of tenures for the cultivator, and a reasonable assurance that the power of enhancement will not be pushed so far as to make that stability a nullity, for no tenure is worth fixing if the enhancement is severe.

“I have thus, I hope, successfully met the objection as to the absence of any necessity for legislating on behalf of the Oudh tenantry. I now turn to the provisions of the Bill as introduced.

“With the Statement of Objects and Reasons will be found printed a letter from the Local Government, giving reasons for the form which the Bill assumes, and for the various minor alterations proposed in the present Rent Act. I shall not trouble Council with recapitulating these on this occasion. They will be fully discussed in Select Committee, and such of them as are finally agreed upon can be referred to so far as is necessary when the Report is presented and taken into consideration.

“I confine myself now to the more important changes, the first of which is that the tenant should have rest for seven years. For that period, dating from the last change in his rent or the last alteration in the area of his holding, we propose to bar enhancements of rent and the issue of notices of ejectment. The present Rent Act does not provide for the issue of notices of enhancement, and the consequence is that notices of ejectment are largely issued for the purpose of securing enhancement as well as for eviction—a fact which must be borne in mind in weighing the annual statistics respecting them. I have already stated that the number of these notices has risen from 25,744 in 1869, the year in which the present Act came into force, to 92,602 in the current year. I shall not trouble Council with the figures for each year, though I have them by me, but state simply that the total number issued in 18 years has been 1,869,964, which would give more than one for every cultivator in the province. This, however, conveys a very inadequate idea of the effect of the notices, for there are districts in which the issues have been comparatively few, and estates where they are little known; and here it is right that I should state that by far the largest proportion of notices has been issued on coparcenary properties, and that tenants on taluqdari estates, speaking generally, have been much less subjected to this form of pressure. Zamindari or coparcenary estates constituted two-fifths of the area of the province, and hence it may be conjectured to what an extent landlords of this class have availed themselves of the power of exaction or eviction with which the law arms them.

“Further the enquiries reported on by Major Erskine clearly brought out the fact that the number of notices issued was no satisfactory gauge of the degree to which rents were enhanced under their operation. A few notices on the boldest recusants are sufficient to induce the bulk of the cultivators to comply with the landlord’s demands. In one large village of Kurni tenants, the most careful and industrious class of cultivators in Oudh, in which a special enquiry was made in 1881, the Government demand was Rs. 400. The rent-roll had been brought up to Rs. 1,027. A stranger got possession, and by the issue of only 18 notices and availing himself of dissensions, among the cultivators succeeded in raising the rents of nearly all the tenants from 10 to 20 per cent. The Deputy Commissioner of another district writes in an annual report:—

‘The results of the notices appear to have been much the same as last year. Over the greater portion of the Atraula taluk enhancement of rent is practically made without having recourse to process by notice. The raiyat is actually able to pay something more than he pays at present; the landlord’s kariinda visits a village and calls on all the raiyats to sign a new kistband at enhanced rates. They all refuse at first, then gradually by dint of vigorous

harassment and no doubt occasional violence a few are forced to give in, after which most of the rest follow like sheep, inwardly resolving not to pay a penny more than they used to do. A few independent souls hold out, and are marked down for next notice season. The bulk of the agricultural population in this district are timid and spiritless and extremely ignorant peasants.

"I could adduce much more testimony did time allow" in support of my proposition that the number of tenants affected by the notices of enhancement largely exceeds that of those on whom those notices were served, large though that be.

"On the other side the tenants did not fail to avail themselves, so far as in them lay, of the means of resistance in their power against these attacks of their landlord. The law allows of a tenant giving a notice of relinquishment, and a considerable number of these were issued year by year. Where there were most disturbances at the instance of the landlords there were most relinquishments on the part of the tenants. The districts most distinguished for the action of the landlords in ejectment are those which show the greatest number of tenants' relinquishments. This, however, was a weak defence, and failed when it was most wanted, as in bad years the proportion of relinquishments to ejectments invariably fell, and the landlord was master of the situation. The Commissioner of Rai Bareilly writes:—

"The proportion of rents enhanced by notices of ejectment to rents abated by notices of relinquishment is as ten to one."

"It requires no lengthy argument to prove that the existence and continuance of such a struggle between two parties so unequally matched must prove fatal to the prosperity of the localities where it prevails, and that the first step to be taken for the protection of the weaker and the ultimate good of both is to make the war to cease. This, as I have stated, is the first point aimed at by the Bill in the provisions fixing a statutory tenancy for seven years. That period is an arbitrary one, but it has been fixed in what seemed to be the interests of both parties, and has met with no serious opposition. Like all such arbitrary periods, it may be too long to please one party and too short to please another; it may be impossible to say why it should not be six or eight rather than seven; but it was not arrived at without mature consideration, and I need not detain Council with the reasons which led the Government to adopt it.

"The next point to be considered is what is to happen at the end of the seven years. Are we to allow the present law to come into force again, and had landlords with appetites whetted by seven years' abstinence to enhance and eject *ad libitum*. This is obviously impossible, and the mode in which protection should be afforded to tenants has been the subject of long and anxious consideration. It might have been proposed that rents should not be enhanced for the term of settlement, and that the landlord's power of ejectment except for non-payment of rent and breach of the conditions of tenure should be carefully swept away. This course, however, was not for a moment contemplated, and, as in Oudh it is beyond the sphere of practical politics, it may at once be dismissed from our consideration.

"Many authorities were in favour of allowing only such enhancements of rent as might be judicially determined by Courts or officers specially empowered to settle rents. This view has in theory much in its favour. The decisions of Courts of Justice are looked upon, if not as the perfection of human reason, yet as the fairest means attainable of doing right in the controversies between man and man. The Courts, however, must decide on evidence furnished to them by the parties, and are shut out from sources of information which, in cases like those involving the fixation of rents over large areas, are essential to the right determination of particular cases and vital as regards the welfare of the agricultural community. Officers specially appointed for the task may indeed after careful study and practical experience acquire such a knowledge of the different soils prevailing in selected localities and of the amount and nature of their produce as may render their decisions less dangerous than those of Courts giving judgment in isolated cases, but they must fail in allowing due weight to the countless diversities which make uniform rates of rent inapplicable to all the fields in a village, circle or other arbitrarily assumed

area. No satisfactory standard has yet been devised for determining the fairness of a given rent; and in the North-Western Provinces, where the Settlement-officer's assessment rates, which are easily ascertained, are generally used for this purpose, I can vouch from experience that no more difficult task is thrown upon the Revenue Courts than the trial of enhancement cases. No doubt, valuations of land and produce for the purpose of fixing rent are not uncommon in England and elsewhere, and, where farms are large and capital abundant, furnish a rough and ready means of settling disputes between landlord and tenant. Profits in such countries are large enough to allow a margin for errors in calculation on one side or the other; but in Oudh there is no such margin. The average size of the farms is but five acres, upon which the first burden must be the support of the cultivator and his family; and when the funds necessary for this are deducted, the balance available for the rent is too small to allow of room for miscalculations or error. Any increase to it, however trifling, can only be made at the expense of the subsistence fund, the diminution of which means the deterioration of the peasant, upon whom in the last resort the support of society depends. The system of determining rent at the present day in this part of India by estimating the money value of a proportion of the gross produce received its deathblow in the lengthened discussions on the Bengal Tenancy Act a year or so ago, and I hope it is unnecessary for me to take up time by arguing against it.

"Another difficulty attendant on the introduction of this system of judicial rents into Oudh I shall just touch on—that is the provision of machinery adequate and competent for the task. Existing establishments have been cut down to the lowest scale, and are working under high pressure; so that it would be obviously impossible for them to undertake the duty of settling rents in hundreds of thousands of cases at the close of the seven year period, and it would be equally impossible for Government to provide at once from other provinces a sufficient number of officers qualified to conduct an operation so delicate and so gigantic even if the successor of my honorable friend Sir A. Colvin saw his way to make the necessary financial provision for them—a contingency which the outlook at present scarcely warrants our contemplating.

"All projects for fixing rents judicially being thus abandoned, Government were driven to the alternative of leaving those most interested to adjust rents by mutual agreement, subject to a certain maximum imposed for the protection of the weaker party to the contract. That maximum is an increase of $6\frac{1}{2}$ per cent on the existing rent. This gives the landlord an opportunity of revising his rents four times within the currency of a 30 years' settlement, and would enable him under the most favourable circumstances to raise his rents about 27 per cent during that period, while it would at the same time afford him some assurance as to the principle on which the Government demand would be adjusted at the next settlement of land-revenue. Assessments would be based not on conjectural valuations of produce, but on rents actually paid.

"The proposal to fix the limit of enhancement at a proportion of existing rents is not free from objections; like all arbitrary limitations it is open to criticism, but if we are to wait until we can find a solution of the Oudh tenant-right question against which no objection can be brought, the amelioration of the condition of the tenantry must be deferred to the Greek kalends. The practical question is not what is a theoretically perfect system, but what changes in the present system, effective for the object we have in view, is open to the fewest and weakest objections.

"This limitation of enhancement proposed is based on a principle universally admitted, that sudden and harsh enhancements are injurious and should be restrained; and existing rents are taken as a starting point, because under the almost unrestricted influence of competition through a series of years and after a general and steady advancement of rents they are understood to be on the whole very closely approximate to the full market-rates, and to bear probably a more uniform relation to the net produce than could be attained by any official revision of them however carefully conducted. It is very probable that the landowner will at the expiry of each statutory period avail himself of his

legal right of enhancement *should the circumstances of the market admit it*, but this is an incident of tenure not unknown in the most prosperous examples of British farming.

"The arrangement also gives us the undeniable advantage of certainty, thereby affording to the tenant a certain security against eviction and excessive enhancement and a stimulus to devote his utmost skill and industry to the improvement of his holding during the seven years for which the law guarantees him undisturbed possession of it.

"The Government, however, are not unaware that change of circumstances may render useless or mischievous a hard-and-fast rule as to the maximum rate of enhancement, and in view of this we have taken power enabling the Local Government to vary within periods of not less than seven years the limits of the enhancement to which tenants with rights of occupancy are liable. I pointed in my speech on the introduction of the Bill to some causes which might render a fixed maximum oppressive or inadequate, and recent experience in Ireland, if such were necessary, warns us that a few bad seasons may have such an effect on rents fixed on what seemed at the time to be equitable principles. The power is no doubt an important one to be entrusted to the executive Government, but it would be put in force only on exceptional occasions, and its exercise would be carefully watched. It is not desirable that on every occasion where circumstances may call for a variation of the limit of enhancement the intervention of the Legislature should be resorted to, and the whole question of the relations between landlord and tenant be thereby again opened up. It must also be borne in mind that Government has a substantial interest in holding the balance fairly between them on this point. As the interdependence of land-revenue and rents is becoming closer every year, any large reduction of rents must affect the Government revenue. I now pass on to the subject of ejectionment.

"Enhancement and ejectionment hang together. As I have pointed out on a previous occasion, provisions for protecting the tenant from enhancement are of little use if the power of ejectionment at his will and pleasure is left to the landlord. A tenant in an agricultural community such as we have to deal with will agree to any demand which does not involve starvation sooner than part with what affords the means of subsistence for himself and his family; and the unrestricted power of ejectionment is really a power to rackrent. That this power has not everywhere produced its natural consequences hitherto is due to the moderation of the majority of the landlords, and to the fact of the pressure of the population on the land not having reached its extreme limit in all parts of the province. But this state of things is passing away, and the moderation of landlords will be subjected to a strain too great to be resisted. Moreover, cases are but too numerous, where the power, chiefly I am bound to say among the smaller landlords, has been unsparingly exercised, and also where the lessees of absentee proprietors have not failed to push to the utmost the advantage which the law gives them. Limitations on the power of ejectionment are therefore a necessary consequence of those on enhancement.

"The Bill proposes in the first instance to render more effective the provisions of the existing law regarding the payment of compensation for tenants' improvements. On this point I need not now dwell. The new section has been drawn on the lines of that passed for Bengal last year, and is likely to excite little controversy. The principles on which it is based were thoroughly discussed in this Council on more than one occasion, and have encountered no opposition.

"The mere payment, however, of compensation for improvements is not a sufficient deterrent as in the cases where it will operate the landlord is sure of receiving again a return for the money expended by him. Something further is required to prevent landlords from using the power of ejectionment harshly or capriciously to the detriment of their tenants generally, and this the Bill furnishes in the shape of compensation for disturbance. A landlord who ejects a tenant willing to pay the statutory enhanced rent at the end of the seven years' period of occupancy must pay the

tenants so ejected one year's rent. Compensation for disturbance is not altogether a new idea in India. In No. 1 of the printed papers hon'ble members will find an account by Mr. J. B. Lyall of a system based on this principle which was introduced and worked by him for a time with the assent of the zamindárs in the Kangra district. Three years ago this Council accepted the principle and embodied it in the Central Provinces Tenancy Act. I have referred to my friend the Officiating Chief Commissioner as to the working of the provision. He tells me that the time that has elapsed since the Act came into force has been too short to allow of the law on this point being made much use of, or to admit of any valuable opinion being formed as to its operation. The principle was also contained in the Bengal Tenancy Bill as introduced, and was dropped out only at the last moment, having been found to be not required for occupancy-tenants. The non-occupancy-tenants were believed to be only a minority of the cultivators of Bengal, and it was considered that they would derive sufficient protection from the system of judicial leases established by the Act. In Oudh, circumstances, I need scarcely point out, are certainly different. The whole of the Oudh cultivators are practically tenants-at-will, and the Bill makes no distinction between classes among them, and establishes no favoured grade—a principle which has been steadily kept in view in maturing the present proposals. Compensation for disturbance has thus been for some time under discussion in this country, and Government has failed to discover any more effective means of checking evictions made with the view of securing harsh and unreasonable enhancements.

"A low scale of compensation for disturbance will not operate strongly, it is true, in checking enhancements where there is a keen competition for land, and the landlord can look forward to receiving at once from the incoming tenant a bonus sufficient to recoup the compensation paid to the tenant who vacates; but, unless under very favourable conditions, it must act in some degree as a deterrent to a landlord who wishes to proceed to enhancement by way of eviction. The necessity of paying down cash the recovery of which may be open to some doubt will in such cases make a landlord pause, and the knowledge that if ejected he will not be turned out on the world as a pauper will promote the self-respect of the tenant and nerve him to apply his skill and industry to making the most of his holding.

"This is, however, one of the points in the Bill to which objection is made by the Taluqdárs Association.

"In the discussions on this Bill the Government have shown themselves desirous as far as possible to meet the objections of the taluqdárs, and is my hon'ble friend can bring before the Select Committee any modification of our plan of compensation for disturbance, or any substitute for it which is likely to prove equally effective for checking capricious evictions, I can assure him of the fullest and most favourable consideration for it.

"I may, however, state here some considerations which have occurred to me respecting the objections to our proposal urged by the taluqdárs. Their objection, as I understand, is not so much to the imposition of a penalty on the exercise of their power of ejectment as to the indignity of being obliged to pay money to a tenant from whose presence they are anxious to free their estate. There is doubtless force in this objection in the case of a good landlord who desires for the benefit of his property to get rid of a bad tenant. But all landlords are not good and all tenants are not bad. And we are legislating to prevent bad landlords from doing what good landlords have not hitherto felt inclined or compelled to do. A bad tenant would in most cases be slack in the payment of his rent, and we have introduced a new provision into the Bill which will enable a landlord at any time to get rid of a tenant who cannot or will not pay up arrears of rent decreed against him. This is a considerable extension of the powers of realising arrears of rent by ejectment possessed by landlords under the existing law, and will, I hope, be taken as outweighing in some degree the obligation of paying compensation for disturbance to tenants ejected on other grounds.

"It is also urged that the right of compensation for disturbance at the close of the seven years' tenancy implies a right of occupancy in the land against the will of the landlord, and that the recognition of any such right in the tenants derogates from the rights guaranteed to the taluqdárs. This applies only to taluqdári estates, and has no bearing on two-fifths of the land of Oudh, which is not held by taluqdári landlords; and I would appeal to my hon'ble friend to consider before he pushes home the argument, whatever be its worth, whether, having acknowledged most candidly the necessity for affording tenants stability of tenure for a period of seven years and protection from excessive enhancements at the end of that period, the taluqdárs of Oudh are prepared to nullify the provisions on this last head by insisting on opposing for the benefit of bad landlords measures by which alone those provisions can be made a reality.

"The Bill as it stands enables any landlord to get rid of the obligation of paying compensation for disturbance by granting leases for a longer period than seven years, which, coupled with the power of requiring the prompt ejectment of a tenant who fails to pay arrears of rent decreed against him, limits the range and mitigates the stringency of the provisions objected to.

"My Lord, I feel I have trespassed on the patience of Council to an unconscionable extent, and I shall add only one word as to the objection taken to section 129 of the Bill, which reserves power to the Local Government to revise and settle rents under certain conditions. I explained on a former occasion that this section was drafted in order to define the liability of the taluqdárs under the sanads by virtue of which they hold their estates. I showed that even in case of small zamindárs the grant of such powers was not unprecedented, that it would really be a relief to good landlords to know exactly what they might and might not do without incurring the risk of penalty, and that it was supported by a warm friend of the taluqdárs. Their Association, however, objects strongly to the grant of this power to the Local Government; and as the enforcement of the conditions of the sanad is of the highest political importance and one on which no doubt as to the views of the Government of India and indeed of Her Majesty's Government at home should be allowed to remain, I shall leave the objection to be dealt with by the members of the Executive Council who follow me."

The HON'BLE RANA SHANKAR BAKSH then addressed the Council in the vernacular, a translation of his speech being read by the Secretary as follows:—

"My Lord,—As a Member of this Hon'ble Council, I feel it my duty to express my humble views on the broad and difficult questions involved in the Oudh Rent Bill, which is now before Your Excellency's Council. But I shall confine myself to a few remarks which will not take up much of the valuable time of the hon'ble members.

"From the results of formal and elaborate enquiries which have from time to time been made into a tenant-right in Oudh, it has been universally admitted that the landlords in Oudh have never practised extortion towards their tenants. In support of this I respectfully refer Your Lordship to the Minute of His Honour the Lieutenant-Governor, North-Western Provinces and Oudh, dated 28th December, 1882; to letter No. 135, dated 1st June 1883, from Major Erskine, the Special Commissioner; and to letter No. 3939, dated 21st December 1882, from the Secretary to the Government, North-Western Provinces and Oudh. In the face of such high authorities exonerating the taluqdárs from the charge of rackrenting and oppression, I humbly submit that I am quite unable to understand how such a charge can for a moment be supposed to be true or well-founded, and how the notorious Sahlamao case can be cited in support thereof.

"The sanads granted to the taluqdárs, when read with the letters of the 10th and 19th October, 1859, leave no doubt as to the fact of the protection therein afforded being confined, with certain conditions, to those under-proprietors who occupied an intermediate position between the superior proprietors or taluqdárs and tenants-at-will, and who were actually found to possess an occupancy-right in 1855. But in obedience to the will of Government, and with the sole view of

benefiting these intermediate holders, the taluqdars have loyally submitted to the extension of the period, during which their claims may be heard, to twelve years. This is sufficiently proved by the following legislative enactments and official circulars to which I humbly draw the special attention of this Hon'ble Council:—

"By Act XVI of 1845 the period in question was extended from the 13th February, 1844, to the 23d February, 1850.

"By Act XXVI of 1846 under-proprietary rights in *sir*, &c., were conceded to sub-lessees and under-proprietors.

"By Act XLII of 1850 the right of redemption of mortgage was allowed, contrary to the express provisions of the *sanad*.

"By Circular IV of 1857 compensation was made to ex-proprietors in the shape of an under-proprietary title.

"By section 5, Act XIX of 1853, a right of occupancy was conferred on ex-proprietors in their *thakbhisht* land.

"Having mentioned briefly some of the most valuable concessions made by the taluqdars in favour of their tenants, I proceed to examine the broader question of an alleged 'tenant-right' in Oudh. On this important question I think I cannot do better than draw the attention of this Hon'ble Council to the elaborate and complete enquiries made in 1855, which resulted in the famous despatch of His Majesty's Secretary of State dated 10th February, 1855, wherein it was finally settled and authoritatively declared that a tenant-right had ever existed in Oudh, that is, tenants will possess no right whatever in the land they cultivated. But the taluqdars of Oudh, in deference to the wishes of Government and with the sole view of gaining their goodwill and promoting the welfare of their tenants, have, of their own accord, by a Resolution of the Committee of the British Indian Association held on the 22nd April, 1836, agreed to make two fresh valuable concessions in favour of the latter, and cheerfully accepted the rules of seven years' lease, and of the limitation of enhancements, subject to the following very important exceptions:—

"(a) *navatore* (land given on clearance lease);

"(b) *banjor*;

"(c) jungle;

"(d) new alluvial land;

"(e) *partti*;

"(f) land reared or cultivated by the landlord at his own expense.

"The same Lord, the taluqdars of Oudh have on every occasion proved their loyalty and devotion to the British Government, have always earnestly endeavoured to gain its goodwill and have always shown moderation and liberality to their tenants and those who hold under them. Under these circumstances, I respectfully submit that the charge of rackrenting and oppression brought against them far from being just and reasonable. But, as experience has shown that section 43, Act XIX of 1858 has not worked as well as could be desired, and that some amendment should be made therein in the interests of all concerned, I do not feel very justified in saying that I hold a different opinion.

"Now, with Your Lordship's permission, I propose to examine some other provisions of the Oudh Rent Bill which, in my humble opinion, are open to serious objection.

"Amongst these I would, with due deference, draw Your Lordship's attention to the provisions of section 33 (A), regarding compensation for disturbance, and of section 129, authorizing the Local Government to interfere in cases of great mismanagement. These sections, I humbly submit, should be entirely expunged from the Bill, because 'compensation' presupposes the existence of a right in lieu whereof something is given; and as no tenant-right is proved to have ever existed in Oudh nor can any be created, it does not appear for what the proposed compensation is to be given. If this compensation is for ejection, it involves the loss of the proprietary rights of the landlords, and will inevitably have the effect of depriving them thereof. It will be a very great hardship to the landlord if, after being debarred from ejecting his tenant for seven years, and enhancing

his rent beyond one anna in the rupee on the expiration of that period, he is compelled to pay one year's rent to the tenant so ejected. Such a measure would almost be intolerable to the landlord. As an illustration of this I would humbly ask Your Lordship to look into the case of a tenant who has to pay an annual rent of one hundred rupees, and who, on being ejected after the expiration of the statutory period of seven years, is paid that amount, and the land is let to another tenant on a rent of Rs. 100 *plus* Rs. 6-4. During the next seven years the landlord will realize from the new tenant Rs. 43-12 only, which is less than one-half of the amount he has paid to the old one as compensation for disturbance; that is to say, out of a total rent of Rs. 100 the landlord will lose Rs. 56-4, and will have no prospect of realizing that amount from any one by any means, nor will he be able to recoup himself during the next fourteen years for the loss thus sustained. The compensation for disturbance rule, which is a very hard-and-fast rule indeed, will, in the long run, deprive the landlord of his power of ejection altogether, and will give the tenant a right to hold the land for a practically unlimited period. Upon those who cannot afford to pay any compensation at all, it will have the effect of permanently transferring their properties to their tenants. It is the duty of this Hon'ble Council to have due regard for the rights and interests of all classes for whom it proposes to legislate.

"Another effect of this compensation for disturbance rule will be that it will be an irresistible temptation to tenants to shift their holdings as frequently as they could, and will set them wandering about in quest of a better land and a more lenient landlord from whom they could squeeze a larger amount as compensation for disturbance. One of the main objects of this Bill, as I understand it, is to give fixity of tenure to the cultivator, and to induce him to devote more time and labour to the cultivation of his holding. This object, I humbly submit, will be utterly defeated by the rule in question, which, diverting the tenant's attention from the cultivation of his holding, will fix it on compensation. This, as a matter of fact, will lead to the deterioration of the soil, and will leave no chance of its improvement. What justification is there, I would respectfully ask, for depriving the party justly entitled of a portion of his right and giving it to another party which does not possess the shadow of a right? Will it be just and reasonable to deprive the landlord of the only means of getting rid of a bad tenant by making this objectionable rule applicable to all classes of tenants? The ejection of recalcitrant tenants should, like that of defaulters, be made a rule rather than an exception.

"Now, with due respect and deference, I beg to draw the attention of this Hon'ble Council to the provision of section 129. I will not dwell upon the reasons and motives which have prompted the insertion of this section in the present Bill. I will leave it to the hon'ble members to consider and decide whether it is necessary to retain this section after adequate provisions have been made for fixing the term of the lease and limiting the enhancement of rent. The term of the lease having been fixed and the rate of enhancement limited, I humbly submit that this section seems to me to be entirely unnecessary and undesirable, and should be expunged from the Bill.

"In conclusion, I humbly pray that sufficient time may be allowed to the taluqdars for submitting their objections to certain provisions of this Bill, and suggesting some useful provisions for insertion therein, and explaining the exceptions subject to which they have accepted the rules of seven years' lease and of the enhancement of rent. I beg leave to support the Motion that the Oudh Rent Bill be committed to the Select Committee for consideration and report."

The HON'BLE SIR STEUART BAYLEY said:—"I think, my Lord, that the Council are to be congratulated in the circumstances under which they are now proceeding with this Bill, as the announcement which we have just heard from the hon'ble member who represents the Taluqdars' Association, that they accept the two main principles of the Bill, renders unnecessary a great deal of irritating controversy as to the legislation of 1868, and the circumstances of the inquiries which led up to it. There is a great deal to be said on both sides of the question, but it cannot be said without raising a certain amount of unpleasantness, and for that reason I am very glad that it has not come to be

discussed. With regard to the legislation of 1868 itself, I have only to make one observation, and that is that Sir John Strachey, who introduced the Bill himself, looked forward to the time when under the stress of unlimited competition it would be necessary to take fresh legislative action in order to strengthen the tenants' position; and he was careful to point out that the hands of the Government of India were as much unfettered in intervening in questions between the landlord and tenant in Oudh as in any province in India, except in regard to the one point as to the conditions under which the rights of occupancy should be exercised. He mentioned this, and he significantly added that it would be desirable that there should be no misunderstanding on that point. Nor need I now, after the exhaustive explanation which the hon'ble mover of the Bill has given us, enter at any length into the present condition of affairs, which has rendered legislation necessary. The Council are well aware that the province of Oudh is a purely agricultural country, that it is very thickly populated, and that, of the tenant-cultivators, over 99 per cent. are cottier tenants-at-will, liable to be ejected every year on a notice of one month. The inquiries instituted, and which lasted for several years, were very exhaustive, and the result, as the papers before you show, was that there was an unanimous opinion on the part of the district officers that, in view of the rapid rise in rents, of the rapid increase in notices of ejectment and of the general status of the cultivators which I have just pointed out, it would be absolutely necessary to strengthen their position with a view to giving stability to cultivation and encouraging improvements. These were the conditions which led to the introduction of the Bill.

"Turning now to the speech of the hon'ble member who represents the taluqdárs,—a speech which follows the main lines of the memorial of the 23rd April, submitted by them,—I have first to remark that I think the Government ought to acknowledge heartily the loyalty and moderation with which the body of taluqdárs have advanced half-way to meet the wishes of the Government; and I think that, on our part, we ought to give very careful consideration in consequence to whatever objections they may urge to the special provisions of the Bill, and that as far as possible, with due reference to the security which it is the main object of the Bill to obtain for the cultivators, we ought to do our utmost to meet their wishes. The two points to which both in the memorial and in the hon'ble gentleman's speech the greatest attention is given are sections 38 and 129. Section 38 provides that, when a landlord elects to eject a tenant at the expiry of his lease without giving him the option of staying on at an enhanced rent, he shall give that tenant compensation for disturbance equal to one year's rent. Section 129 provides that, when the agricultural condition of an estate is greatly deteriorated owing to gross mismanagement, the Government shall have the power to send in an officer to settle the rents, and the rents so settled shall be stable for a period of ten years.

"I will, with the permission of the Council, deal with the latter of those two sections first. The history and object of that section, as has been explained by my hon'ble friend Mr. Quinton, was to give effect in a modified form and in a legal method to a well known provision of the taluqdárs' sanad. That provision is to the effect that they should be retained in possession of their estates so long as they maintained the agricultural prosperity of those estates and secured those holding under them in the possession of their rights. This clause in the sanad has been the subject of a great deal of discussion. Sir Charles Wingfield, who was the strongest upholder of taluqdári rights, refers to it distinctly as a condition which warrants the Government in interfering in order to prevent oppression; and Sir George Couper in one of his letters speaks of it as the **Magna Charta** of the Oudh rights. Well, no doubt that condition in the sanad does give Government the power of interfering to prevent oppression, but the terms are somewhat vague and indefinite, and the penalty—no less than confiscation or sequestration—is so enormous that it is not to be wondered at that the Government have been very reluctant to take executive action under that condition. As a matter of fact, it has only once been acted upon. It therefore appeared possible that, instead of leaving this tremendous "bludgeon clause" hanging over the heads of the taluqdárs, a modified penalty to be exercised under

the definite provisions of the law might be found to meet all the requirements of the condition, and might not be unacceptable from that point of view as a definite and milder penalty to the taluqdars. For my own part I cannot confess to feeling any surprise that, on consideration, the taluqdars have preferred to go on living under the same indefinite terror, to which they have become accustomed, rather than to accept a more definite, although very much milder, penalty about which they could only predicate that in occasional cases it might be reverted to with less reluctance than the severer one. Speaking for myself, I should say that this Bill gives generally such protection to the raiyats as to render it unnecessary to have recourse to special and exceptional action in regard to individual ill-doers. Consequently, if the proposal is accepted by the Local Government, I shall without regret see the section expunged by the Select Committee.

"The question of compensation for disturbance is a much more difficult one. It is discussed very fully and carefully in Sir Alfred Lyall's letter of the 21st December, 1883; it runs in and out throughout the whole correspondence, is perpetually cropping up, and argued first from one point of view and then from another; and when you think it is put aside for the moment, you find that every question comes back to this as the main prop on which almost all the other provisions of the Bill hinge. The point is this—In order to give stability to the cultivator and encourage him to make improvements, Sir Alfred Lyall has laid very great stress upon the necessity of giving the sitting tenant at the end of his seven years' lease option of holding on at the enhanced rate. I should explain that under the accepted provisions of the Bill he gets under a seven years' lease and a limit on the enhancement. Sir Alfred Lyall then says that the sitting tenant ought to have the first option of a new lease at the enhanced rate. But, if side by side with that provision you leave it in the power of the landlord to eject a tenant without compensation, what becomes of the safeguard that Sir Alfred Lyall thinks absolutely necessary? The condition that the sitting tenant shall have the first option of the renewed lease at an enhanced rate is nullified; as a matter of fact you come up to almost unrestricted competition. On the other hand, the position taken up by the taluqdars is very strong. I cannot quite follow my hon'ble friend in the first of his arguments that, because a tenant has no occupancy-right, therefore, the offer of compensation is a distinct deduction and derogation from the proprietary right of the landlord. It is true that the decision of the Government was that the tenant has not, and never had, an occupancy-right which could be enforced; but it is well known—and I do not think that the fact will be disputed anywhere—that the tenant in Oudh, as elsewhere, has by custom an hereditary occupation. That was the opinion of Lord Lawrence's Government in their letter to the Chief Commissioner of the 16th February, 1885, in which it is said:—

'3. The evidence adduced tends to show that under the Native Government of Oudh there was vested in the raiyat no right of occupancy which could be successfully maintained against the will of the landlord.

'4. It is at the same time held by no means certain that the landlord had a legal right to oust a raiyat who continued to pay the customary rent, and there existed a prevailing usage by which the occupant-cultivators did, in point of fact, generally maintain the hereditary possession of their lands at the customary rents.

'5. It is unnecessary here to enquire whether this usage was the remnant of a former right of occupancy surviving thus imperfectly a long reign of anarchy, or whether it sprung spontaneously out of the mutual relations and necessities of landlord and raiyat. It is admitted very generally to exist, and in some quarters with such strength and distinctness as closely to resemble an actual right.'

"Well, it is admitted the raiyat's status is a question of custom and not of right, but, admitting this, I cannot see that compensation involves any real weakening of what is generally understood as the landlord's proprietary rights. Apart however, from this objection, I think that from the landlord's point of view there is objection to be taken very strongly on two other sides of the question. The landlord might very properly say 'Why, if I want to get rid of a recalcitrant tenant, should I be fined for it?' Or, even if he does not look at the matter from that point of view, he may very strongly say 'Why, when I find it essential to the peace of the neighbourhood, owing to the carelessness of

a man or to his disposition to cause trouble, or even owing to caste prejudices—if I find it necessary for my own peace and perhaps to retain my other tenants—if I find it necessary to oust him—why should I have to make him a present of a year's rent?' This really becomes a premium on turbulence and misconduct, and from that point of view I must confess there is a great deal to be said in favour of the objection; and Sir Alfred Lyall, in the letter from which I have quoted, had not failed to notice the point. He discussed it and tried to find a remedy; the remedy which he proposed, or rather discussed, was that, when it became a question of getting rid of a recalcitrant tenant, a landlord should be able to get rid of him by satisfying the Revenue Courts that he had sufficient reason for so doing. Sir Alfred Lyall in discussing the matter came to the conclusion that in the first place this would involve a great deal of unpleasant litigation—litigation which would probably cost the landlord quite as much as the year's rent which he was asked to pay as compensation for disturbance, and which, if the cost were thrown on the raiyat, would ruin him; and further he objected that the particular grounds for getting rid of the man were such that the question would be one in which no Court could come to a satisfactory decision. He consequently rejected that suggestion and fell back upon the proposal now made in the Bill. The point is one on which there is a great deal to be said on both sides, and on which I confess I should like to reserve my final opinion. I think that, while we ought to attach very great importance to the object Sir Alfred Lyall has in view, the particular method here brought forward in the Bill is one to which an equal importance does not attach; that is to say, if this security can be attained by any other method, or if after full consideration the local officers and the Local Government think that the Bill gives sufficient security without any further safeguards, then I for my part should be very willing to be guided by their advice.

"The other points discussed in the memorial are mainly questions which must be viewed in the light that may be thrown upon them by local custom; they are consequently questions upon which I am not prepared at present to give any opinion at all, and they will be more properly discussed in Select Committee. I am glad to learn from what my hon'ble friend has mentioned that before the question comes before the Select Committee it is the intention of the Lieutenant-Governor of the North-Western Provinces and Oudh to meet the taluqdars at Lucknow, and to go into the question again fully with them. Under these circumstances I think the Select Committee will have the best possible advice; their task will be very much simplified, and they will be able to arrive at a much more satisfactory decision than they otherwise could have done.

"Finally, I have only to say that, believing as I do that this Bill is calculated to do much for the agricultural prosperity of the province, I think that Sir Alfred Lyall is to be congratulated on having initiated it. I think also that he is to be congratulated on the confidence in his justice and farsightedness which he has inspired in the taluqdars, and which has influenced them in accepting the two main principles of the Bill, although no doubt they derogate somewhat from their present powers."

His Excellency THE PRESIDENT said :—

"I shall only trouble the Council with a very few observations, and I cannot preface them in a manner more consonant to my own feelings and to the sentiments which I know to prevail amongst my colleagues than by congratulating them and myself upon the acquisition of our new member, who has already shown by the ability with which he has expressed his views what a useful and worthy accession he is likely to prove to the Legislative Council of the Government of India.

"At our last meeting in Calcutta I explained that the reason why we did not then proceed with the Bill was the unavoidable absence of our colleague, the Hon'ble Rājā Amir Hosan, who was prevented from taking his place among us by severe illness. I added, however, that the Local Government, in order to save time, intended to publish a draft of the Bill, and to collect the opinions of competent authorities upon it. Rājā Amir Hosan is, to our great, regret still

disabled from attending here, but a very well-qualified representative of the taluqdars, the Vice-President of their Association, has been appointed to assist us by his advice. The Bill has now been examined by the taluqdars, and we are in possession of their views; and I am glad to learn that in the main principles of the Bill they have expressed their acquiescence. I myself am fully convinced of the expediency of legislation on the basis of this Bill, and, while congratulating the taluqdars on the moderation they have shown, I am glad to understand from the previous speakers that there is a disposition to meet, as far as possible, the wishes of the Association on minor points.

"There is one special matter, however, upon which I should like to say a word in reply to what has fallen from my hon'ble colleague Rina Shaukar Baksh Singh, and that is the question of compensation for disturbance. I understand that the taluqdars are inclined to consider that, were a claim of this sort to be conceded to the tenants, it would be tantamount to an acknowledgment of a right of permanent occupancy in their favour. Now, this is a matter which has for many years past occupied my attention, and I must confess that in my opinion no such consequences can be held to flow from it. When a yearly tenant is unexpectedly evicted from his holding, the injury he sustains is not limited to the loss of his improvements, but it entails a further loss occasioned by the disturbance introduced into his plan of life and his industrial undertakings. As a landlord I have myself always recognized the equitable claim of the tenant-at-will to compensation on this account, especially under a system of agriculture such as that which prevails in Oudh and in my own country, but I never held nor admitted that it implied either a proprietary or an occupancy right. When, moreover, we remember that this claim only amounts to one year's rent (in Ireland it was assessed at between four and seven years), and that it can be neutralized by the grant of an eight years' lease, I do not think that its recognition by the legislature can be complained of by any one. I admit however, that the interests of the landlord in regard to the tenant's disturbance claim should be safeguarded by allowing him to plead certain considerations as an offset or justification. However, I will not dilate further on this particular point, because it falls more properly within the competence of the Committee to which this Bill has been referred. I will only conclude by saying that there is now no reason for further delay, and the Bill will proceed in due course through the regular stages. Between this and the time when the Select Committee will meet, the criticisms of the public on the Bill will be invited, and it will be examined more fully by the Association of the taluqdars and discussed with His Honour the Lieutenant-Governor and Chief Commissioner, who will visit Lucknow for the purpose."

The Motion was put and agreed to.

The Hon'ble MR. QUINTON also moved that the Bill and Statement of Objects and Reasons be published in the *North-Western Provinces and Oudh Government Gazette* in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

NORTH-WESTERN PROVINCES RENT ACT, 1881. AMENDMENT BILL.

The Hon'ble MR. QUINTON also moved that the Report of the Select Committee on the Bill to amend the North-Western Provinces Rent Act, 1881, be taken into consideration. He said:—

"When I obtained leave via Calcutta to introduce this Bill and that to which the following Motion refers in February last, and refer them to a Select Committee, I stated at length the reasons which in the opinion of the North-Western Provinces Government rendered legislation necessary. I have not had the advantage of attending the meetings of the Select Committee, but the criticisms received have been duly considered and the Bills have emerged from the crucible with no alterations of importance.

"Under these circumstances I feel justified in asking the Council to pass them today."

The Motion was put and agreed to.

The Hon'ble MR. QUINTON also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

NORTH-WESTERN PROVINCES LAND-REVENUE BILL.

The Hon'ble MR. QUINTON also moved that the Report of the Select Committee on the Bill to amend the North-Western Provinces Land-revenue Act, 1873, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. QUINTON also moved that the Bill be passed.

The Motion was put and agreed to.

INDIAN MUSEUM BILL.

The Hon'ble SIR S. BAYLEY introduced the Bill to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body, and moved that it be referred to a Select Committee consisting of the Hon'ble Mr. Libert, the Hon'ble Sir A. Colvin and the Mover.

The Motion was put and agreed to.

The Hon'ble SIR S. BAYLEY also moved that the Bill and Statement of Objects and Reasons be published in the *Calcutta Gazette* in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

DEBTORS BILL.

The Hon'ble MR. LIBERT moved for leave to introduce a Bill to amend the law relating to imprisonment for debt. He said:—

"I am reminded by the audience who are facing me that the Council is practically sitting to-day as a local legislature for the territories under the administration of the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh,—territories to which a separate legislature has not been given under the provisions of the Indian Councils Act,—and accordingly this is, I think, a suitable opportunity for the introduction of a measure the immediate application of which will be confined to those territories.

"In moving recently for leave to introduce the Indian Bankruptcy Bill I referred to the important subject of imprisonment for debt, and, whilst frankly stating my personal opinion that the present law is a bad law, I went on to say that in the present state of Indian public opinion I was not prepared to propose any amendment of it which should apply to the whole of India. But I took care to reserve my opinion on the question whether the Government would not be justified in proposing legislation confined in its scope to a particular province where the balance of authoritative opinion was in favour of such legislation. It is a measure of such limited application that I am now asking leave to introduce.

"The present state of the law is this. Under the Civil Procedure Code a decree or order for the payment of money may be enforced by the imprisonment of the judgment-debtor. The Court has a discretionary power to refuse execution at the same time against both person and property, but has no discretionary power to refuse execution either against person or against property at the option of the creditor. When an application for execution of a decree is presented, it must, if it is not barred by efflux of time and is otherwise in order, be admitted, and then the Court must order execution of the decree *according to the nature of the application*. The Court cannot refuse to issue its warrant for the execution of the decree unless it sees cause to the contrary, and "cause to the contrary," as interpreted by the Courts, means some cause which deprives the decree-holder of the right to execute, or to execute against the party against whom execution is sought, or to execute in the mode prayed for.

"But to this general law there is one remarkable local exception. In the four districts of the Dekkhan to which the Dekkhan Agriculturists' Relief Act applies, arrest and imprisonment for debt have been altogether abolished in the case of the class of persons described in the Act as agriculturists. 'No agriculturist,' says the Act, 'shall be arrested or imprisoned in execution of a decree for money'. The Act has now been in operation for more than six years, and the periodical reports of its working show that this simple and trenchant provision has worked well, and has been attended with beneficial results. Now the Dekkhan Relief Act is, substantially, an amendment of the Civil Procedure Code, confined in its scope to a specified, but extensive and important, set of transactions; and I have always considered that such of its provisions as are found by experience to work well ought eventually to be generalized and embodied in the Code. The experience already gained of this particular provision is, I think, at least sufficient to justify us in trying it on a more extensive scale.

"It will have been seen that, under the general provisions of the Civil Procedure Code, the discretion as to whether a debtor shall be arrested and imprisoned or not rests not with the Court but with the creditor. It may be clear that the debtor has property available for attachment, and that a warrant of arrest has been applied for from vindictive or other improper motives, and yet, if the creditor asks for a warrant of arrest, a warrant must issue. The debtor may be a woman, she may even belong to the class of women who by the law of this country are exempted from public appearance in Court, and yet, if the creditor says that he wishes to send her to prison, to prison she must go.

"Now, in the year 1831 a case occurred which illustrated the working of this provision of the law and attracted a good deal of public attention. The case was one in which a *paradánashin* lady in Calcutta was arrested and imprisoned in execution of a decree for money obtained against her. Some correspondence with respect to the case took place between the Government of India and the Government of Bengal, and eventually, as a result of the correspondence, a circular was in November, 1831, addressed by the Government of India to all Local Governments and Administrations, stating that the Government of India had under consideration the question of amending the provisions of the Code of Civil Procedure bearing upon the question of the arrest of *paradánashin* women in execution of the decrees of Civil Courts, but that before coming to any final conclusion on the subject the Governor General in Council thought it desirable to deal with the larger question of abolishing imprisonment for debt, and for this purpose to enquire whether sufficient reasons exist for the continued maintenance in India of the present system. Local Governments and Administrations were accordingly requested to favour the Government of India with a full expression of their opinion on the matter.

"The replies to the circular disclosed much difference of opinion with respect to the advisability of maintaining for India the present system of imprisonment for debt, and the usual arguments, with which most of us are familiar, were duly marshalled on either side.

"The arguments on which the upholders of the present system relied fall into two classes: first, arguments which, if valid at all, are valid for England as well as for India; and, secondly, arguments based on the special circumstances and conditions of India.

"To arguments of the first class belongs the assertion that "to remove from the Statute-book the penalty of arrest and imprisonment in execution of a decree for money would be to paralyze the commerce and trade of the country." These general predictions are dangerous. Precisely the same objection was made in England, first to the abolition of arrest on mesne process, and afterwards to the abolition of arrest on final process. It is the kind of objection which, as logicians would say, *solvitur ambulando*. The power of arrest was removed, and neither commerce nor trade shewed any symptoms of paralysis.

"Those who uphold imprisonment for debt, not as being generally expedient, but as being specially required for India, do so mainly on two grounds: first, the complexity and obscurity of Indian titles to property; and secondly, the exceptional prevalence of fraud in India, and the exceptional difficulties of detecting it.

"As to the first ground, I will only say that two wrongs do not make a right. If it is wrong, as I hold it is, to allow a debtor to pledge his person as security for his debts, it is not the less wrong because, owing to the defects of Indian property law, he finds difficulty in giving a satisfactory security over his property.

"In the argument based on the prevalence of, and difficulty of detecting, fraud there is undoubtedly much force, though, after having in the course of my professional career studied most of the reports and evidence bearing on the law of debtor and creditor in England and conversed with a large number of persons who have a practical experience of its working, I am inclined to doubt whether the moral complexion of the Indian debtor is really so much darker than that of his English brother, and whether the obstacles which can be placed in the way of a creditor realizing his debts are not as great in England as in India. But, however this may be, to make an honest, though needy, debtor liable to imprisonment, simply because fraudulent debtors are numerous and difficult to detect, appears to me something like making homicide by misadventure punishable by death, simply because the crime of murder is rife and hard to prove.

"There are, in my opinion, two principles which ought to be observed in every law of debtor and creditor. The Courts ought not to give effect to any pledge by a debtor either of his person or of the bare necessities of life. The debtor ought not to be allowed, by his own action, supplemented by the action of the Courts, either to deprive himself of his personal liberty, or to reduce himself to starvation. If he cannot obtain credit except on one or other of these securities, it is better that he should not obtain credit at all. These principles appear to me to be as applicable to India as to England—to an uncivilized as to a civilized country. The Code of Civil Procedure recognises one of these principles by exempting from seizure for debt the debtor's bare means of subsistence. But this recognition is nullified by the refusal to adopt the principle of exempting the debtor's person from seizure. Of what use is it to reserve by law to the debtor the bare necessities of life, when he can be compelled to give them up by the threat of imprisonment? By those who advocate the retention of the present system much reliance is placed on the very small proportion of actual imprisonments to warrants of arrest; and the inference drawn from this proportion is that the law, though harsh in theory, produces no hardships in practice. But my belief is that, in the great majority of cases, exemption from arrest is purchased either by renewal of bonds on extortionate terms, or by surrender of property which the law has exempted from seizure, or by surrender of property which does not belong to the debtor at all but to his relations or friends. In other words, the law enables a creditor to do indirectly what it forbids him to do directly.

"It is said that the honest debtor has an easy way out of prison through the door of insolvency. But in the first place, the honest debtor ought not to be sent to prison at all; and in the next place, the door which is provided for his release is, for some reason or other, very rarely used. There is, or was until recently, a strong concurrence of opinion to the effect that the insolvency chapter of the Code of Civil Procedure is practically a dead letter. As to the causes of its failure,--whether it is to be accounted for by the preliminary proceedings being unnecessarily cumbrous or expensive, or by the difficulty of satisfying the Court that the debtor has not been guilty of any kind of misconduct, or by ignorance of the law and of the modes of relief available to debtors,--opinions differ; but about the fact of failure there appears to be no difference. The legislation of 1879 has done something towards the improvement of the Insolvency chapter of the Code. But I believe that the experience of those who have been concerned in the working of that chapter will bear me out in saying that notwithstanding those improvements the number of orders passed under it falls very far short of what might be expected under a thoroughly satisfactory and workable law. And whilst this is so it would be unfair to point to the provisions of the chapter as a justification of a law which, but for those provisions, would be admittedly unjust and defective.

"My own strong opinion, on the evidence before me, is that imprisonment for debt, as such, ought to be abolished in India as it has been abolished in England and other civilized countries, but that in India as in

England imprisonment should be retained as a punishment in those cases where indebtedness involves an element of fraud.

"If I thought that the objections to the present law were merely theoretical, if the conclusions at which I have arrived were based merely on *à priori* reasoning and were not supported by practical experience, I should hesitate to bring forward proposals about the expediency of which doubts are entertained by a large number of the Indian judicial authorities. But this is not the case. The evidence collected by the Dekkhan Riots Commission is sufficient to show, if other evidence were wanting, that the existing law is not only defective in theory but oppressive in practice, and my opinions are shared by those whose authority to speak on Indian subjects no one could question. Looking round this table, I can appeal to Sir S. Bayley, who, writing in April 1882 as Resident at Hyderabad and with the experience which he had acquired in Bengal and Assam, was of opinion that the present system of imprisonment for debt is not wanted to compel payment, while it may be used to bring undue pressure to bear on a debtor, and that this is especially the case in an agricultural country where land is generally given as security for debt; to Sir Theodore Hope, who, in the speech which he made in 1879 in introducing the Dekkhan Agriculturists' Relief Bill, stated the case against the present system more forcibly and concisely than it had ever been stated before; to Sir Auckland Colvin, who was himself a member of the Dekkhan Riots Commission; and to Sir Charles Aitchison, who intimated very clearly in 1882 that, but for 'the weight of learned opinion' by which he was embarrassed, the Punjab Government would then have been ranked among the decided opponents of the present law.

"With Sir T. Hope's permission I will read to the Council some extracts from his admirable and exhaustive speech on the Dekkhan Relief Bill. In referring to the provisions of the Bill with respect to the mode of enforcing execution of a decree, he expressed himself as follows:—

'As to execution against the person by arrest and imprisonment, I rejoice to state that it is now considered expedient to abolish it altogether. Imprisonment will still be inflicted as a punishment for fraud detected on insolvency; but that is a totally different thing. The maintenance of imprisonment for debt, as found in the Indian law, is equally indefensible in principle and in practice. As to principle, the Dekkhan Riots Commission make clear that point, utilising the opinions of John Stuart Mill. Their appendices teem with evidence in detail as to the extortion and wrong of which the warrant of arrest becomes in practice the engine. Unacknowledged payments, fresh bonds for sums unadvanced, life-long slavery and even female dishonour may all be obtained—the first three constantly, by the mere production of the warrant of arrest without enforcement. They say, for instance, that in 1874 "it would seem probable that somewhere about 150,000 warrants had been used as threats only." The outcry against imprisonment from officers well qualified to judge of it has been uniform and persistent. Its abolition is unanimously recommended by the Dekkhan Riots Commission. Mr. Pedder and Miss Nightingale have in *The Nineteenth Century* brought the evils it causes prominently before the British public. Sir Erskine Perry gives its abolition his "unqualified approval" in a note dated December 1st, 1877. Judicial officers and pleaders take the same view as the Executive. Were it even defensible in theory, which we have seen that it is not, the abuses to which, in a country like Western India at least, it is proved to lead in practice afford sufficient ground for its condemnation in the districts to which the Bill is to apply. * * * Imprisonment was, at best, a barbarous device to meet the case of a debtor's concealing his property or refusing to give it up. Under the draft Bill, it will be quite unnecessary for these purposes, and reserved for cases of flagrant fraud or dishonesty in insolvents. In this altered position I trust that no hesitation will now be felt by the Council in abolishing a system which has been proved to be grossly abused as an engine of extortion, and is in opposition to the legislation of the civilized world.'

"These are the opinions of an officer whose experience was derived mainly from the Bombay Presidency. Let me add equally weighty testimony from another part of India. This is what was said by the Lieutenant-Governor of the North-Western Provinces in 1882:—

'5. Sir A. C. Lyall has long been of opinion that the powers of subjecting a debtor to arrest and imprisonment should not be entrusted to the decreeholder, but to the Courts only; and, in leaving with the Courts the authority to imprison, he would limit its exercise to cases in which clear proof should be shown of fraud or dishonest evasion of payment on the part of the judgment-debtor. The existing practice of placing in the creditor's

hands the power of selecting his own method of coercion is, Sir A. C. Lyall believes, a relic of the old semi-barbarous debt laws which has now been eliminated from almost every civilised code of judicial procedure. The retention of this process in our Indian code would, upon this principle, be justified only by showing that it was specially required by the circumstances and conditions of the administration of the debt law in this country; and Sir Alfred Lyall does not think that any such imperative reasons for retaining it can be adduced.

‘6. It has been argued that, by restricting the process of arrest to cases of proved dishonesty or contumacious refusal to pay debts, the debtor would be given an opportunity for getting out of the way, and thus evading arrest if the Court should determine to order it. But, in the first place, the position of an absconder from process is a very uncomfortable one; so that only the class of debtors who now run away from the creditor are likely to run away from the Court; and, in the second place, the additional risk that would be imposed on the creditor in his realisation of bad debts seems quite worth incurring for the purpose of relaxing the severity with which the present system operates against all debtors, honest and dishonest, indiscriminately. Of the persons arrested, only a comparatively small number seem to be actually imprisoned after arrest; and this fact has been taken to prove that most of these debtors were able to pay but refused to do so till arrested. But it is at least quite as probable an explanation that the debtor, when arrested, preferred, rather than go to jail, to accept any terms which his creditor chose to dictate to him, and to save himself from prolonged imprisonment by executing or renewing bonds on hard or ruinous conditions, or by mortgaging or selling all his property, including property exempt by law from attachment under a Civil Court decree. The effect of arrest, in neutralising the legal exemptions from attachment, seems indeed to merit particular attention. For although section 260 of the Code of Civil Procedure provides that certain things shall be exempt from attachment under a decree, the provision can be practically of little use when the creditor can, by exercising or threatening to exercise his power of arrest, compel the debtor to give up any property whatsoever that he may possess. The Judicial Commissioner of Oudh has cited, as an instance of the difficulty which creditors would experience in realising their debts if the power of arrest were abolished, the case of a debtor who holds a pension, which the law forbids the Court to attach, but who owns no other tangible property. It is argued that such a man may be made to pay his debt while the law allows him to be arrested, but might defy his creditor if the power of arrest were removed. But, according to this view of the case, it is clear that the power of arrest now operates in a great degree to annul the exemption from attachment assigned by law to the pensioner, since the creditor, though he cannot directly attach the pension, can imprison the pensioner till he comes to terms that may be equivalent to its transfer.

‘7. There may be cases falling under section 251 of the Code of Civil Procedure in which it may be necessary to reserve power to the Court to order the imprisonment of a judgment-debtor who has wilfully disobeyed the Court's specific order, for instance, in the case of a suit for the recovery of a wife. (I will remark here, parenthetically, that I wish to reserve my opinion as to the expediency of a law which enables a husband to obtain the imprisonment of a contumacious or runaway wife, but this question does not arise on the present Bill, which is confined to money debts. To proceed with my quotation.) But all such cases would fall under the rule of dishonest or contumacious evasion; and it would be quite sufficient to invest the Court with discretion and authority sufficient to enforce its own specific mandates. And the reservation of the power of personal coercion to the Courts would prevent the process being employed, as there is reason to believe it occasionally is employed, to gratify a vindictive feeling on the part of the creditor, as in cases where there has been a quarrel, or where a debtor, knowing himself to be insolvent, has favoured another creditor at the expense or to the disadvantage of the decreeholder.

‘8. Sir A. C. Lyall would therefore advocate the entire abolition of the process of arrest for debt, so far as it is a process that can be set in motion at the discretion of the creditor, and would allow the Courts to order arrest only on proof of fraudulent and contumacious attempts to defraud at the operation of a decree.

‘9. It is possible that the abolition of the power of arrest would make the recovery of debts somewhat less easy; but, granting this, the law is not bound to go beyond a certain limit in aiding creditors, and in Sir A. C. Lyall's opinion it goes too far when it leaves to creditors uncontrolled power of imprisoning their debtors. Imprisonment is especially hard on the cultivator and working man, whom it deprives of their means of subsistence and of providing for their families, and these are the classes who probably are most frequently imprisoned.

“There is no branch of the law which more intimately affects the welfare of the poorer classes throughout India than the law of debtor and creditor; and if the Government of India entertains an opinion that that law is seriously defect-

ive it would incur a grave responsibility if it were to hesitate or unduly delay to give its opinion practical effect.

“Why then, I may be asked, did not the Government of India undertake legislation in 1882 or 1883? The answer is that it would have been inconvenient and inexpedient to do so at a time when analogous legislation was still under discussion in Parliament. The English legislation of 1869 proceeded on the sound principle that provisions for the relief of the honest debtor should be accompanied by provisions for the punishment of the fraudulent debtor. The Debtors Act of 1869, which abolished imprisonment for debt, as such, contains two Parts, of which one is headed ‘*Abolition of Imprisonment for Debt*’ and the other ‘*Punishment of Fraudulent Debtors*.’ Concurrently with it was passed the Bankruptcy Act of 1869, which remodelled the system of bankruptcy for England, and with reference to which the penal provisions of the Debtors Act are framed. Now in 1882 and 1883 the English bankruptcy law was in the legislative crucible, and it appeared to me that, much as the Indian insolvency law stood in need of amendment, it would be desirable to defer proposals for its amendment until the new English law had been passed, and some little experience of its working had been obtained, and that then, and not till then, would be the proper time for dealing with the cognate subject of imprisonment for debt. As soon as the new English Bankruptcy Act had become law I set about the preparation of a corresponding measure for India, but the preliminary steps occupied some time, and it was not until a fortnight ago that I was able to introduce the Indian Bankruptcy Bill into this Council. The main provisions of that Bill will operate only within the Presidency-towns and a few other like places, but it contains one Part, the Part headed ‘*Fraudulent Debtors and Creditors*,’ which applies to the whole of British India. This part is taken from the English Debtors Act of 1869, as amended by the English Bankruptcy Act of 1883. When read with the Indian Penal Code, it will be found to contain those full and strong powers for the arrest and punishment of fraudulent creditors and debtors which are the essential adjuncts of every proper bankruptcy law. Therefore I am now in a position to say that I have already brought forward those proposals for the amendment of the penal law which in the opinion of the Parliament of 1869 were the proper supplement and corollary of proposals for the relief of the innocent debtor.

“I may add that the interval which has elapsed since 1883 has not been wholly unfruitful of results. I was anxious to fortify myself with information about the law of imprisonment for debt in foreign countries, and through the kindness of Sir H. Maine I obtained from Her Majesty’s representatives abroad a series of interesting reports on that subject. A summary of those reports has been published, and fully bears out the statement made by Sir T. Hope in 1879 that the existing Indian system is ‘in opposition to the legislation of the civilized world.’

“I have described the steps which were taken with reference to this subject in 1881, and have explained why legislation was not initiated as an immediate consequence of those steps. It remains for me to explain the nature of the proposals which on behalf of the Government of India I am bringing forward now. Having regard to the authority and experience of some of those who are opposed to a change in the law, and bearing in mind the immense diversity of circumstances and conditions which prevails throughout this vast peninsula, we thought that, while we should not be justified in further delaying legislation, our most prudent course would be to confine its application in the first instance to some one province where the balance of authority, administrative and judicial, is clearly and strongly in its favour. There is such a province. I have read to the Council the opinion that was expressed by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh in 1882, and I am in a position to say that the opinion which Sir A. Lyall held then he holds after four years’ further experience now. His opinion was briefly but emphatically endorsed by the Hon’ble Judges of the Allahabad High Court, who were, and are, strongly in favour of abolishing imprisonment for debt as such.

"Under these circumstances I propose that the measure which I am asking for leave to introduce should apply in the first instance only to the North-Western Provinces and Oudh, but that it should be capable of extension hereafter to other provinces by the Local Governments with the previous sanction of the Governor General in Council. From the opinions which were received from Lower Burma in 1882, and again with reference to the draft Bankruptcy Bill which was published last year, there appears to be a strong feeling in that province in favour of abolishing imprisonment for debt where the debtor has not been guilty of fraud." But on the whole I think it is preferable that the primary application of the measure should be confined to the territories under one Local Government only, and that its effect there should be ascertained before the Act is extended to other parts of the country. The Bill follows generally the principles of the English Act of 1869, by enacting that a Civil Court shall not imprison for debt except in certain specified cases, and that in those cases imprisonment is to be treated not as a measure of coercion but as a punishment. The excepted cases are—

- "(a) where the order is for payment of a fine ;
- "(b) where the defaulter is a trustee or person acting in a fiduciary capacity, and the decree or order requires him, as such, to pay any money which is in his possession or under his control, or any money for which he is accountable and of which he has not discharged himself ;
- "(c) where the Court is satisfied that, since incurring the liability in respect of which the decree or order was made, the defaulter has fraudulently transferred, concealed or removed any part of his property, or committed any other act of bad faith in relation thereto, with the object or effect of impeding the enforcement of the decree or order by the attachment and sale of his property ;
- "(d) where the Court is satisfied that the defaulter either has, or has had since the date of the decree or order, the means to pay the money, and has refused or without reasonable cause neglected, or refuses or neglects, to pay the same.

"In these excepted cases the debtor may be sentenced to imprisonment for a term not exceeding six months: he is to be imprisoned in the civil jail, but is nevertheless to be subject, as nearly as circumstances admit, to the discipline prescribed in the case of a criminal prisoner undergoing simple imprisonment, and his creditor is not to be liable to pay subsistence-money for his maintenance in prison. It appears to me that these consequences logically follow from the theory that imprisonment is inflicted as a penalty and not as a screw. The liability of the judgment-creditor to maintain his debtor when in jail existed under the old insolvency law in England, and the Act which imposed it was once described as giving the creditor 'the power of imprisoning and tormenting his debtor at the expense of 3s. 6d. per week.' I regard it as a bad qualification of a bad law, and think that the law and the qualification should disappear together.

"These are, very briefly, the main provisions of the Bill. For its subsidiary provisions I must refer the Council to the Bill itself and to the Statement of Objects and Reasons, both of which I propose to publish at once. The Bill is comparatively short and simple, but the subject with which it deals is as important as any that have ever engaged the attention of the Indian legislature."

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also introduced the Bill.

The Hon'ble MR. ILBERT also moved that the Bill and Statement of Objects and Reasons be published in the local official Gazettes in English and such other languages as the Local Governments think fit.

The Motion was put and agreed to.

HUDH WUSIKAS BILL.

The Hon'ble MR. QUINTON moved for leave to introduce a Bill to declare certain allowances collectively known as Hudh Wasikas to be pensions within the meaning of the Pensions Act, 1871. He said :—

"Certain allowances, locally known as Amanat Wasikas, Zamanat Wasikas and Loan Wasikas, are paid by the British Government to the descendants of certain relatives and dependants of the Bahu Begam and the Vazirs and Kings of Hudh. Till the year 1880 no doubt was entertained that these allowances were pensions within the meaning of the Pensions Act, 1871. In that year it became desirable on financial grounds to commute one of the largest of them, and, a dispute having arisen as to the person entitled to receive the capitalized amount of the allowance, the Government had to consider whether it could safely pay the amount under cover of the Pensions Act to the person who appeared to be best entitled. The Hon'ble the Advocate General inclined to the opinion that a Wasika was a pension within the meaning of the Act, but thought there was a good deal to be said in favour of the opposite view. As the sum involved was so very large that the Government would not have been justified in incurring any risk in disposing of it, a special Bill was introduced into the Legislative Council and passed as the Taj Mahal's Pension Act, 1881.

"This step, which the Government was compelled to take for its own protection, necessarily suggested a doubt as to the applicability of the Pensions Act to Wasikas.

"As it is expedient on political considerations that there should be no room for question as to the applicability of the Act to Wasikas, the Government has decided to introduce this Bill to remove the doubts created by the legislation of 1881."

The Motion was put and agreed to.

The Hon'ble MR. QUINTON also introduced the Bill.

The Hon'ble MR. QUINTON also moved that the Bill and Statement of Objects and Reasons be published in the *North-Western Provinces and Hudh Government Gazette* in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 23rd June, 1886.

S. HARVEY JAMES,

Offg. Secretary to the Govt. of India,

Legislative Department.

SIMLA ;
The 11th June, 1886)

GOVERNMENT OF INDIA.
PUBLIC WORKS DEPARTMENT.
RAILWAY TRAFFIC.

No. VI of 1886-87.

APPROXIMATE STATEMENT OF GROSS RECEIPTS AND EXPENSES OF INDIAN RAILWAYS.

Latest Return received.	Railways.	Total mean length open.	RECEIPTS FOR WEEK ENDING 10TH MAY 1886.		Total mean length open.	RECEIPTS FOR WEEK ENDING 15TH MAY 1886.		TOTAL RECEIPTS FROM 1ST APRIL TO 10TH MAY 1886.		TOTAL RECEIPTS FROM 1ST APRIL TO 15TH MAY 1886.		Total increase in 1886-87.	Total decrease in 1886-87.
			Total.	Per mile open.		Total.	Per mile open.	Total.	Per mile open per week.	Total.	Per mile open per week.		
	<i>Guaranteed.</i>		<i>Rs.</i>	<i>Rs.</i>		<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	<i>R.</i>	<i>Rs.</i>
15th May 1886	Oudh and Rohilkhand	65.8	1,28,563	2.8	65.0	1,20,465	2.51	6,04,404	2.86	10,57,303	2.4	1,53,800	...
22nd do.	Madras	300	1,21,000	1.72	300	1,11,509	1.61	9,18,880	1.9	6,20,572	1.6	1,07,8	...
22nd do.	South Indian	674	7,27,89	1.21	674	9,13,397	1.57	8,04,080	1.55	6,11,17	1.1	5,375	...
22nd do.	Great Indian Peninsula	1,504	6,31,000	6.13	1,504	11,13,991	7.42	60,11,193	6.9	60,99,137	7.15	2,50,441	...
22nd do.	Bombay, Baroda and Central India	401	3,42,553	7.91	401	3,33,900	7.22	20,01,307	6.90	22,00,158	7.45	1,17,921	...
	TOTAL	1,885	19,21,171	3.9	1,885	18,39,282	4.1	1,11,06,003	4.13	1,17,06,110	4.39	6,00,137	...
	<i>State.</i>												
12nd May 1886	East Indian	1,700	11,01,194	1.1	1,717	10,37,266	0.8	6,04,11,100	0.8	65,74,131	6.1	3,62,632	...
12nd May	Eastern Bengal	53	75,171	3.1	234	79,800	3.11	5,76,800	3.27	5,08,755	3.51	48,104	...
12nd do.	Nalhati	27	1,11,111	1.7	27	1,1,001	1.8	9,071	1.4	11,141	1.4	1,071	...
12nd do.	Northern Bengal	140	3,11,111	1.1	219	4,11,111	1.94	2,47,001	1.1	2,50,111	1.81	41,100	...
12nd do.	Kumaon-Dumai	1	1,11,111	1.1	37	1,1,001	1.1	2,07,001	1.1	1,11,111	1.1	6,020	...
12nd do.	Patna-Gy.	1	1,11,111	1.1	239	3,07,001	1.1	1,00,001	1.1	2,07,001	1.1	6,000	...
12nd do.	Catmora-Achra	1	1,11,111	1.1	27	1,1,001	1.1	6,001	1.1	8,111	1.1	1,100	...
12nd do.	Dudhaura-Gy.	1	1,11,111	1.1	11	1,1,001	1.1	2,800	1.1	1,00,001	1.1	249	...
12nd do.	Rupnagar-Milwa	1,111	3,07,001	1.1	1,111	3,80,001	7.1	2,07,100	2.1	2,50,111	1.1	3,17,64	...
12nd do.	Wardha-Gy.	40	1,11,111	3.4	45	1,4,87	3.11	9,07,001	3.3	1,11,111	1.1	1,100	...
12nd do.	Nagpur and Chhatisgarh	11	1,11,111	2.7	149	3,8,001	1.61	3,37,333	3.17	1,11,111	3.13	9,170	...
15th do.	Birah-Burma	1	1,11,111	1.1	37	4,11,111	1.1	2,11,111	1.1	2,11,111	1.1	1,000	...
12nd do.	Singh	1	1,11,111	1.1	1	1,1,001	1.1	4,11,111	1.1	1,11,111	1.1	1,100	...
12nd do.	Northern Bengal	1,111	1,11,111	1.1	1,111	4,8,111	1.1	4,8,111	1.1	3,11,111	1.1	1,100	...
12nd do.	Amritsar-Patna	1	1,11,111	1.1	60	5,11,111	7.1	4,11,111	1.1	3,11,111	1.1	1,100	...
12nd do.	Punjab-Patna	1	1,11,111	1.1	39	2,11,111	1.1	1,11,111	1.1	1,11,111	1.1	1,100	...
12nd do.	Dumra	1	1,11,111	1.1	10	3,11,111	1.1	1,11,111	1.1	3,11,111	1.1	1,100	...
12nd do.	Amrit	1	1,11,111	1.1	30	4,11,111	1.1	1,11,111	1.1	1,11,111	1.1	1,100	...
12nd do.	Cannore-Kalpi	1	1,11,111	1.1	42	3,11,111	1.1	1,11,111	1.1	1,11,111	1.1	1,100	...
	TOTAL	1,111	1,11,111	1.1	1,111	1,11,111	1.1	1,11,111	1.1	1,11,111	1.1	1,100	...
	GRAND TOTAL (GUARANTEED AND STATE)	1,111	1,11,111	1.1	1,111	1,11,111	1.1	1,11,111	1.1	1,11,111	1.1	1,100	...
	GROSS ESTIMATED EXPENSES												
	NET RECEIPTS												
	<i>Actual Receipts.</i>												
8th May 1886	Bombay and Central	(a)			(a)			(b) 9,421	8.	(c) 1,11,111	8.	3,666	...
22nd do.	Bombay and Central	(a)			(a)			(b) 3,571	2.6	(c) 4,071	1.12	1,100	...
8th do.	Assam	(a)			(a)			(b) 1,11,111	1.1	(c) 3,11,111	87	1,100	...
22nd do.	Southern Malabar	(a)			(a)			(b) 1,11,111	1.1	(c) 1,11,111	1.1	1,100	...
22nd do.	Bombay and Central	(a)			(a)			(b) 1,11,111	1.1	(c) 1,11,111	1.1	1,100	...
22nd do.	Tamilnadu	(a)			(a)			(b) 1,11,111	1.1	(c) 1,11,111	1.1	1,100	...
	TOTAL	(a)			(a)			(b) 1,11,111	1.1	(c) 1,11,111	1.1	1,100	...
	<i>Native States.</i>												
22nd May 1886	Bhavnagar-Gondal	(a)			(a)			(b) 1,11,111	1.1	(c) 1,11,111	1.1	1,100	...
22nd do.	Jodhpore	(a)			(a)			(b) 1,11,111	1.1	(c) 1,11,111	1.1	1,100	...
8th do.	Nizam's	(a)			(a)			(b) 1,11,111	1.1	(c) 1,11,111	1.1	1,100	...
15th do.	Mysore	(a)			(a)			(b) 1,11,111	1.1	(c) 1,11,111	1.1	1,100	...
22nd do.	Kannara Palwala	(a)			(a)			(b) 1,11,111	1.1	(c) 1,11,111	1.1	1,100	...
	TOTAL	(a)			(a)			(b) 1,11,111	1.1	(c) 1,11,111	1.1	1,100	...

N.B.—As regards the figures in column "Total Receipts from 1st April to date," audited figures have been avoided as far as possible.

(a) Return not received.

(b) Total receipts from 1st April to 9th May 1886.

(c) Total receipts from 1st April to 8th May 1886.

SIMLA,

FRED. FIREBRACE, Major, R.E.,

Under Secretary.

The 9th June, 1886.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 12, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART II.

Notifications by High Court, Comptroller General, &c.

GAZETTE OF INDIA.

NOTICE.

The 15th March 1886.

From the 10th April next, till further notice, Parts I, IV, and V of the *Gazette of India*, and the Weather and Crop Reports, will be published at Simla. After the 3rd April, all Notifications and other matter intended for publication in those Parts, should be addressed to the Officiating Publisher, at Simla.

	R	s.	d.
Subscription for <i>Gazette</i> and Supplement per annum	15	0	0
Postage	5	8	0
Subscription for Supplement only	6	0	0
Postage	3	0	0
For a single copy of the <i>Gazette</i>	0	8	0
For a single copy of the Supplement	0	4	0
Postage on single copies varies according to weight.			

Parts IV and V of the *Gazette of India*, containing the Acts and Bills of the Legislative Council, may be subscribed for separately from the other Parts of the *Gazette*. The annual subscription for the two Parts is Rs 5 per annum, payable in advance. When sent by post, Rs 2-8 per annum additional will be charged for postage.

By an order of Government, all subscriptions must be paid *in advance*.

Applications for the supply of the *Gazette* on the *public service* should be addressed to the Home Department.

Complaints regarding non-receipt of any number of the *Gazette* should be forwarded within a week after the day on which it is due.

Attention is invited to the Circular Memo. of the Government of India, Home Department, of February 1870, directing that all Notifications or other matter intended for insertion in the *Gazette of India* should be delivered at the Publisher's Office not later than 2 P.M. on Friday afternoon, and that matter sent after that hour must be certified to be extremely urgent in order to ensure its appearance in the next day's *Gazette*.

Matter intended for publication in the Supplement should reach the Press not later than Thursday.

E. J. DEAN,

Publisher, Gazette of India.

CALCUTTA UNIVERSITY.

NOTICE.

The Tagore Professor of Law will lecture on the Law relating to the Transfer of Immoveable Property *inter vivos* at 9 A.M., on Saturday, the 19th June 1886, and on succeeding Saturdays, at the Presidency College at the same hour.

W. GRIFFITHS,

Registrar.

SENATE HOUSE,

The 31st May 1886.

No. 81.—Mr. H. O. Walling, Assistant Engineer, 2nd Grade, passed the examination prescribed in Public Works Department Code.

Chapter II, Section i, paragraph 17, on the 1st June 1886.

A. C. BIGG-WITHER,

*Joint Secy. to Agent to Govr. Genl.,
Baluchistan, P. W. Dept.*

AGENT TO THE GOVERNOR GENERAL, RAJPUTANA.

NOTIFICATION.

Abu, the 8th June 1886.

No. 1361 G.—With reference to this Office Notification No. 1081 G., dated 8th ultimo, Major and Brevet Lieutenant-Colonel A. Conolly, Commandant, Meywar Bheel Corps, availed himself on the 30th idem of the privilege leave granted him therein.

By Order,

HUGH DALY,

*for 1st Asst. to the Agent to the Govr. Genl.,
Rajputana.*

RESIDENT IN MYSORE.

NOTIFICATION.

Bangalore, the 4th June 1886.

No. 1597.—Mr. J. C. S. Lawrance, B.A., LL.B., an Advocate of the Resident's Court, is appointed Public Prosecutor of the Civil and Military Station of Bangalore, with effect from the 9th June 1886, *vice* Mr. P. Singarachari, who resigns that appointment.

By Order,

E. A. FRASER, *Major,
Assistant to the Resident.*

DIRECTOR GENERAL OF RAILWAYS.

NOTIFICATION.—ESTABLISHMENT.

Simla, the 4th June 1886.

No. 49.—Mr. J. M. Rutherford, Class I, Grade 3, of the Superior Revenue Establishment of State Railways, Traffic Department, has been granted by Her Majesty's Secretary of State for India extraordinary leave, without pay, for four days in extension of the furlough granted him in Director General's Notification No. 101, dated 4th August 1885.

F. S. STANTON, *Colonel, R.E.,
Director General of Railways.*

CURRENCY NOTES.

The following Currency Notes of the Government of India are stated to have been lost, and payment of their value has been claimed by the persons whose names are placed against the num-

bers. Any other person having these Notes in his possession, or claiming a right to them, is warned to communicate at once with the undersigned :—

Allahabad Circle.

NOTES WHOLLY LOST OR DESTROYED.

Regd. No.	No. of Notes.	Value.	Name of Claimant.
		R.	
9	D 8—56093 to —56102	500 each.	Missar Sepoy Singh and Sital Prasad, Sambhal, Zillah Mooradabad.
10	D 20—62740 to —62761	100 100	
			Shaukh Elahi Baksh, Contractor, Allahabad.

ALLAHABAD,

The 9th June 1886.

H. J. BRERETON,

*Asst. Accountant Genl.,
In charge of Paper Currency Office.*

TREASURE TROVE.

NOTICE.

Notice is hereby given that on the 3rd February 1886, the undermentioned property, valued in all at Rs 180-9, was found near the burial ground at a distance from the temple of Agasti Iswaraswamy, in the village of Irakam, in Gudur Taluq, Nellore District :—

List of Property.	Value.
	R. a. p.
1 A big idol of mixed metal, 6 maunds weight . . .	150 0 0
1 A small idol of mixed metal, 2½ viss weight . . .	15 0 0
1 Cumharthi copper, 1½ viss . . .	3 0 0
1 Tirthuvattu, ¼ viss, copper . . .	1 0 0
1 Copper sandals, a pair, ½ viss . . .	2 0 0
1 A bell, 4 pollams . . .	0 1 0
2 Cumharti thattalu of one metal . . .	4 0 0
1 Plate made of bell metal, ½ viss . . .	0 8 0
1 Metallic plate for Cumharti, 2½ viss . . .	5 0 0
TOTAL. . . .	180 9 0

All persons claiming the treasure, or any part thereof, are required to appear personally or by agent before the undersigned on the 1st October 1886, at Nellore, and establish their claims to it.

W. J. TATE,
Acting Collector.

NELLORE COLLECTOR'S OFFICE.
The 28th May 1886.

TREASURE TROVE.

NOTICE.

It is hereby notified, under Section 5 of the Indian Treasure Trove Act, VI of 1878, that on the 5th day of May 1886, treasure consisting of the undermentioned articles, valued at Rs 127-1, was found by the convicts belonging to the Extramural Convict Gang while excavating earth close to the road to the Aras Mahal, which

is being made in the Mahal Bagayat, in the town of Bijapur, District of Bijapur:—

Description of Property.	Value.		
	R	a.	p.
1. Silver coins bearing inscription in Native character for hazari (1,000) . . .	29	0	0
2. Silver coins bearing inscription in Native character for the year 12 Julus . . .	89	0	0
3. Silver coins bearing inscription in Native character for the year 14 Julus . . .	1	0	0
4. Silver coins bearing inscription in Native character for the year 16 Julus . . .	1	0	0
5. Silver coins bearing inscription in Native character for the year 20 Julus . . .	1	0	0
6. Silver coins bearing inscription in Native character for the year 44 Julus . . .	1	0	0
7. Silver coins bearing inscription in Native character for the year 15 Julus . . .	1	0	0
8. Silver coins bearing inscription in Native character for the year not known . . .	2	0	0
9. Silver coins bearing inscription in Native character for the year 3 Julus . . .	2	0	0
10. Small copper pot in which the treasure was found . . .	0	1	0
TOTAL . . .	127	1	0

All persons claiming the said treasure, or any part thereof, are hereby required to appear personally or by agent before the Mamledar of Bijapur Taluka of the Bijapur District, at his office, on the 30th day of September 1886, in order to the matter being inquired into and determined in accordance with the provisions of the Act.

E. J. EBDEN,
Acting Collector.

BIJAPUR COLLECTOR'S OFFICE,
The 31st May 1886

TREASURE TROVE.

NOTICE.

In terms of Section 5 of Act VI of 1878, notice is hereby given, that on 29th April 1886, certain treasure (Dulabshai Dhabu copper coin of the value of Rs 55-6) was found in a piece of gaothan land lying between the houses of Dodhu Nimji and Ragji Wagji of Waghadi, Taluka Shirpur, of the Khandesh Collectorate of the Bombay Presidency.

Claimants are hereby required to appear personally or by agent before the Mamlatdar of Shirpur, on the 15th October 1886, when he will proceed to hold an enquiry according to law.

W. W. LOCH,
Acting Collector of Khandesh.

DHULIA,
The 8th June 1886.

POST OFFICE.

NOTIFICATIONS.

Simla, the 5th June 1886.

No. 3525.—Mr. Ratanji Jamsedji is appointed to officiate as a 1st Grade Superintendent, Bombay.

Mr. Chandahal Mathuradas is appointed to officiate as a 2nd Grade Superintendent, Bombay.

Mr. Ram Chandra Moreshoor Bapat is appointed to officiate as a 3rd Grade Superintendent, Bombay.

Mr. Vaman Ganesh is appointed to officiate as a 4th Grade Superintendent, Bombay.

G. J. HYNES,

for Dir. Genl. of the Post Office of India.

LOCAL NOTIFICATION.

The 19th June 1886.

Tenders are invited for the supply, under contract for one year, of Professional Petition Writers, to attend at the General Post Office and at the Town Sub-Post Offices, for the purpose of writing and addressing letters and filling in Money Order, Insurance, Parcel Receipts, and other Post Office forms, for the illiterate classes.

A copy of the rules and authorized fees can be had on application to the undersigned.

G BARTON GROVES,

Offg. Presidency Postmaster, Calcutta.

Unclaimed letters held in the Calcutta General Post Office on 10th June 1886

Calcutta, H.	King, J. F. J.	Schultz, W.
Dand, R. H. D.	Leitch, J.	Scott, H. G.
Faulkner, Mrs. G. H.	Macdonald, A. J.	Stevens, R. H.
Gasper, J. Cecil	Powell, J. O.	Winkinson, Messrs & Co.

Letters marked "Care of Post Office."

"Akaba"	Cherries, H. J.	Randall, T.
Barnes, G. J.	Cochran, Mr.	Rice, W. G. I.
Barnett, Mrs. James	Hammerton, C. H. M.	Restwerth, B. J.
Bashir, M. F.	Hodge, R.	R. M. L., Miss.
Bates, J. N.	Hutton, J. C. Col.	Roberts, H. A.
Biggs, Mon. T.	Imperial, James	Robinson, F. A.
Blessett, Mrs. V.	J. M. M.	Rode, Capt. J.
Bowers, S.	Kelly, Mrs. G.	Satten, Miss M.
Breck, A.	K. L. M.	Schmidt, Otto
B. R.	Koch, J. J.	Schoenemann, C. H.
Buile, C.	Kruger, W.	Sharpe, Capt. A.
Capel, Lt. Col.	L. J. J.	Shaw, H. J.
Carson, Mrs.	Little, J. R.	Silk, W.
Cave, Capt. A. F.	M. G.	Smadwood, Geo.
Charleston, R. M.	Macpherson, T.	Smart, Mrs. R. H.
Cohen, Mr.	M. J. J. J.	Smith, Chas. W. Trevor.
Dampock, Paul.	Martin, H.	South, J. M.
D'Miche, Jose.	McDonnell, Miss.	Sole, Rev. A. B.
Dowling, D. G. A.	McDonnell, John.	Stansbury, Walter
D'Rozario, Miss J.	M. C. J. John C.	Stone, Mr. T.
Driver, W. H. P.	Edwards, Mr.	Swonger, Mrs. C.
Drury, Sergeant J.	Moore, Paul	Taylor, Capt.
Dukes, Mrs.	Neale, Mrs. I.	Todd, H. P.
Easton, Percy H.	Olsen, J.	Tracy, A.
Fox, R. C. W.	P. J. B.	Tyrell, C. A.
Fraser, H. B.	Perry, A.	Walker, P. C.
Gayer, A. H.	Perry, J.	Ward, Lieut. R. R.
Gilbert, Mrs. M.	Poly, J.	Wessendort, Henri.
Godfrey, J. B.	Powell, J. O.	Williams, C.
Goodall, Miss.	Prentiss, P. C.	Wison, Mrs. Mark.
Greenhill, H. G.		

Registered Letters.

Aitroleg, G.	June, W.	Ross, A.
Grogan, H. C.	Theriot, Sgt. Nicolas.	Sutherland, G.
Guetner, H. J.	Forster, J. O.	Wetson, W. J.

Unclaimed letters held in the Barrackpore Post Office on the 7th June 1886.

Anar, H.	Hart, H.	Owen, J.
Arnold, M.	Leitch, Miss.	Owen, M. S.
Cox, J.	Lockstone, C. A.	Palk, J.
Debnigh, W. J.	McLay, S. B.	Stewart, Mrs.
Egan, H. R.	Mulick, N. C.	Zachariah, H. C.
Fowler, J.		

G. BARTON GROVES,

Offg. Presidency Postmaster, Calcutta.

The 12th June 1886.
SEA AND FOREIGN MAILS.

Mails for	Date of closing at Calcutta	Route by which despatched.
1886		
Egypt, Europe, America, Cape Colonies through United Kingdom	12th June	Per P. & O. Str. from Bombay.
Ditto ditto ditto	19th "	Ditto.
Ditto Book Post and Pattern Packets	18th "	Ditto.
Mauritius, Malé (Seychelles) Mayotte, Nosé Be, and Réunion	20th "	Ditto.
Zanzibar, Mozambique, and East Coast of Africa generally, Delagoa Bay Natal and Cape Colonies by B. L. Steamers from Aden to Zanzibar and thence by the Castle Mail Packets	14th "	Ditto.
Ditto ditto (Supplement 79)	14th "	Ditto.
Ceylon, Straits Settlements, Netherlands India, Labuan, Bangkok (Siam), Philippine Islands, China, and Japan	2nd "	Ditto.
Australia, New Zealand and Tasmania	2nd "	Ditto.
Madras and Colombo	2nd "	Per P. & O. Str. from Bombay.
Madras, Pondicherry, Ceylon, Batavia, Singapore and China	10th "	Per French Str. from France.
Straits and Hong-Kong	10th "	Per Str. A.
Rangoon and Moupin	14th "	Per Str. A.
Akyah, Kyauk Phoo, and Rangoon	16th "	Per Str. B.

N.B.—The letter-box will close at 7 P.M. on 11th June, after which hour Foreign letters, fully prepaid and bearing an extra postage-stamp of four (4) annas on each cover, will be received till 7 P.M.

G. BARTON GROVES,
Offg. Presidency Post Master.

GOVERNMENT CINCHONA
FEBRIFUGE.

This preparation is an efficient substitute for quinine, and can be purchased by Government officers for public and charitable purposes, and by any one taking *twenty pounds* at a time, from the Superintendent, Botanic Garden, Calcutta, for *cash only*, at the following rates—per four-ounce tin, *Rs. 8-8*; per eight-ounce tin, *Rs. 8-8*; per pound tin, *Rs. 16-8*. The general public can be supplied by the Superintendent, Botanic Garden, for *cash only*, at the under-noted rates—per four-ounce tin, *Rs. 5-8*; per eight-ounce tin, *Rs. 10-8*; per pound tin, *Rs. 20*. This medicine is also sold by the principal European and Native druggists in Calcutta. Postage, eight annas per four and eight ounce tins, and twelve annas per pound tin, in addition to the foregoing rates.

گورنمنٹ سینکونا فبریفیج

یہ دوا کوئیٹائین کا خوب قائم مقام ہے اور کلکتہ کے ہوائیکل گارڈن یعنی کمپنی باغ کے سپرنٹنڈنٹ صاحب سے ہوائیک ملازم سوکری واسطے سوکری کام اور خیمات کے اور سوائے انکے جو کوئی ایک مشین بیس پوند خرید لینے سے یہی دوا نقد حسب نرخ ذیل خرید کوسکتے ہیں یعنی نرخ چار اونس کے تین کا چار روپیہ آٹھ آنہ ; آٹھ اونس کے تین کا آٹھ روپیہ آٹھ آنہ ; ایک پوند کے تین کا سولہ روپیہ آٹھ آنہ

اور عوام الناس ہوائیکل گارڈن یعنی کمپنی باغ کے سپرنٹنڈنٹ صاحب سے یہی دوا نقد حسب نرخ ذیل خرید کوسکتے ہیں یعنی نرخ چار اونس کے تین کا پانچ روپیہ آٹھ آنہ ; آٹھ اونس کے تین کا دس روپیہ آٹھ آنہ ; ایک پوند کے تین کا بیس روپیہ

یہ دوا کلکتہ کے بڑے بڑے دوائی اور دھابی دوا خانوں میں بکتی ہے ماسوائے قیمت مذکورہ بالا کے معقول ذات چار اور آٹھ اونس کے تین کا آٹھ آنہ ; اور ایک پوند کے تین کا بارہ آنہ

CRYSTALLINE CINCHONA
FEBRIFUGE.

A new and improved preparation made at the Government Factory from Red Cinchona Bark. This is a more perfect substitute for Quinine than the ordinary uncrystallized Febrifuge. It can be purchased by Government officers for public and charitable purposes, and by any one taking *twenty pounds and upwards* at a time, from the Superintendent, Royal Botanic Garden, Seelpore, near Calcutta, for *cash only*, at the following rates: per four-ounce tin, *Rs. 8-8*; per eight-ounce tin, *Rs. 12-8*; per pound tin, *Rs. 24*. The general public can be supplied by the Superintendent, Royal Botanic Garden, for *cash only*, at the undernoted rates: per four-ounce tin, *Rs. 8-8*; per eight-ounce tin, *Rs. 16-8*; per pound tin, *Rs. 32*. This medicine is also sold by the principal European and Native druggists in Calcutta. Postage, four annas per four-ounce tin, eight annas per eight-ounce tin, and twelve annas per pound tin, in addition to the foregoing rates.

کرسٹلین سینکونا دوائی بخار

لال سینکونا دوا کی ایک نئی اور عمدہ دوا گورنمنٹ دوائی میں بنائی گئی ہے معمولی بے صاف کی ہوئی دوائی بخار سے کونین کے لئے بہت بہت خوب قائم مقام ہے اور سب پر معقول کلکتہ کے ہوائیکل گارڈن یعنی کمپنی باغ کے سپرنٹنڈنٹ صاحب سے ہوائیک ملازم سوکری کام اور خیمات کے لئے اور وہ لوگ جو ایک مشین بیس پوند لیں بعد اس ہوا سے خرید سکتے ہیں یعنی نرخ چار اونس کے تین کا چار روپیہ آٹھ آنہ ; آٹھ اونس کے تین کا دس روپیہ آٹھ آنہ ; اور ایک پوند کے تین کا بیس روپیہ

اور عام لوگوں کو ہوائیکل گارڈن یعنی کمپنی باغ کے سپرنٹنڈنٹ صاحب سے بعد اس ہوا پر مل سکتا ہے یہ چار اونس کے تین کا آٹھ روپیہ آٹھ آنہ ; آٹھ اونس کے تین کا دس روپیہ آٹھ آنہ اور ایک پوند کے تین کا بیس روپیہ آٹھ آنہ کے لئے اور وہ لوگ جو ایک مشین بیس پوند لیں بعد اس ہوا سے خرید سکتے ہیں یعنی نرخ چار اونس کے تین کا چار روپیہ آٹھ آنہ ; آٹھ اونس کے تین کا دس روپیہ آٹھ آنہ ; اور ایک پوند کے تین کا بیس روپیہ

METEOROLOGICAL PUBLICATIONS
FOR SALE.

At the Meteorological Office, No. 5, Russell Street; also at Messrs. Thacker, Spink & Co., at the prices specified below:—

Report on the Meteorology of India in 1875, 4to, 89 pages text, 297 pages tables, 3 charts. RS.

Report on the Meteorology of India in 1876, 4to, 97 pages text, 340 pages tables, 3 charts. RS.

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- The Indian Meteorologist's Vade Mecum**, Part II [The Meteorology of India]. R5.
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HENRY F. BLANFORD,

*Meteorological Reporter to the
Government of India.***THE INDIAN LAW REPORTS.**

PUBLISHED UNDER AUTHORITY.

The Indian Law Reports, published under the authority of the Governor General in Council, appear in monthly parts, published as soon as possible after the first of each month, at Calcutta, Madras, Bombay, and Allahabad, and comprise four series,—one for the Calcutta High Court, a second for the Madras High Court, a third for the Bombay High Court, and a fourth for the Allahabad High Court. The cases heard by the Privy Council on appeal from each High Court are reported in the series for that High Court. Cases heard by the Privy Council on appeal from Provinces in India not subject to any High Court are reported in the Calcutta Series.

The Calcutta Series is distributed by the Bengal Secretariat; the copies for subscribers registered by Messrs. Thacker, Spink & Co. are distributed by that firm; and the Madras, Bombay and Allahabad Series are distributed direct from Madras, Bombay, and Allahabad respectively.

In supersession of previous advertisements, on and from the 1st January, 1885, the terms of subscription and sale will be as follows:—

Terms of subscription, payable annually in advance.

For the complete Series, including postage		
Without postage.	R10 0	With postage R12 8
For the Calcutta Series		R12 8
" each of the Madras, Bombay and Allahabad Series	" 6 0	" 7 0
" a part of the Calcutta Series purchased separately inclusive of postage in India	"	" 2 0
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 " Curator of Government Books, North-Western Provinces and Oudh.
 " Superintendent of Government Printing, Bengal.

Orders and subscriptions for 1885 should be at once remitted.

NOTICE.*Indian Law Reports.*

Advertisements will be received for publication on the wrappers of the Indian Law Report, Calcutta Series, by the Calcutta Central Press Company, "Limited," 5-1, Council House Street, at the following rates, payable in advance:—

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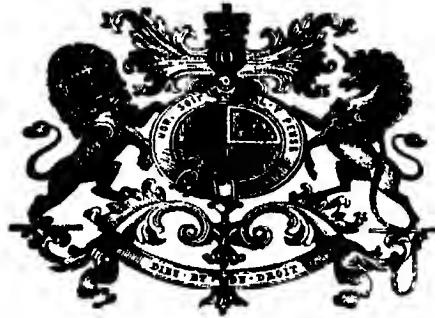
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The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 12, 1886

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost or Stolen.

The lower half of Government Promissory Note No. 052357, of the $4\frac{1}{2}$ per cent. of 1879 portion, for Rs.2,000, originally standing in the name of Russick Lall Ghose, and last endorsed to Russick Lall Ghose, the proprietor, by whom it was never endorsed to any other person. Pay-

ment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietor.

TARA PROSAD CHATTERJEE,
Treasury Officer, Burdwan.

BURDWAN COLLECTORATE,
The 19th May 1886.



The Gazette of India.

PUBLISHED BY AUTHORITY.

No. 25. }

SIMLA, SATURDAY, JUNE 19, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

CONTENTS.

PART I.—Government of India Notifications, Appointments, Promotions, Leave of Absence, General Orders, Rules and Regulations.

PART II.—Notifications by High Court, Comptroller General, Administrator General, Paper Currency Dept., Presidency Pay Master, Money Order Department, Mint Master, Secretary and Treasurer, Bank of Bengal, Superintendent of Government Printing, and other Government Officers; Postal, Telegraph, and Commissariat Notices.

PART III.—Advertisements and Notices by private individuals and Corporations.

PART IV.—Acts of the Governor-General's Council assented to by the Governor-General:—

The North-Western Provinces Rent Act, 1886.
The North-Western Provinces Land-revenue Act, 1886.

PART V.—Bills introduced into the Council of the Governor-General for making Laws and Regulations, or published under Rule 221:—

The Oudh Rent Bill, 1886.
The Indian Museum Bill, 1886.
The Debtors Bill, 1886.
The Oudh Wasikas Bill, 1886.

SUPPLEMENT No. 25.

PART I.

Government of India Notifications, Appointments, Promotions, &c.

HOME DEPARTMENT.

NOTIFICATIONS.—ESTABLISHMENTS.

Simla, the 15th June, 1886.

No. 201.—*Erratum.*—In Home Department Notification, No. 164, dated 19th May last, appointing Mr. C. G. Bayne, C.S., to be Junior Secretary to the Chief Commissioner, British Burma, for "2nd March, 1886," read "1st April, 1886."

MEDICAL.

The 14th June, 1886.

No. 255.—The services of Surgeon G. Bomford, M.D., are placed temporarily at the disposal of the Government of Bengal.

JUDICIAL.

The 16th June, 1886.

No. 802.—The Hon'ble the Chief Justice of the High Court of Judicature at Fort William in Bengal has appointed Mr. C. M. W. Brett of the Bengal Civil Service to be Registrar on the Appellate Side of the Court, *vice* Mr. C. A. Wilkins, whose services have been replaced at the disposal of the Government of Bengal, with effect from the 21st April last.

POLICE.

The 18th June, 1886.

No. 230.—The services of Mr. J. C. Stack, officiating District Superintendent of Police, are placed at the disposal of the Chief Commissioner of Assam.

No. 233.—The services of Mr. D. W. Ritchie, District Superintendent of Police, are placed at the disposal of the Chief Commissioner of Assam.

No. 236.—The services of Mr. C. H. Parish, officiating Assistant Superintendent of Police, are placed at the disposal of the Chief Commissioner of Assam.

PATENTS.

The 14th June, 1886.

No. 699.—Specifications of the undermentioned inventions have been filed, under the provisions of Act XV of 1859, in the Office of the Secretary to the Government of India in the Home Department. Copies have been sent to one of the Secretaries to each of the Governments of Bengal, Fort St. George, Bombay, and the North-Western Provinces. A copy of every specification is open to public inspection, at all reasonable hours, at the Office of the Secretary to the Government of India in the Home Department at the Presidency, upon payment of a fee of one Rupee. A certified copy of any

specification will be given to any person requiring the same on payment of the expense of copying.—

No. 147 of 1885.—Aaron E. Ryles, Assistant Locomotive and Carriage Superintendent, Oudh and Rohilkhand Railway, Lucknow, for an improved method of painting and varnishing carriages or other vehicles, but in particular Railway stock.

No. 148 of 1885.—Aaron E. Ryles, Assistant Locomotive and Carriage Superintendent, Oudh and Rohilkhand Railway, Lucknow, for a system or process of causing metallic enamel to represent all kinds of ornamental stone or wood.

No. 6 of 1886.—Vincent Nepos, of 105, Lower Circular Road, and John Edwards, of Nacoldanga, 24-Perganahs, Locomotive Foreman, Eastern Bengal State Railway, for an improved an-rotation slide valve spindle.

No. 72 of 1886.—Arthur Campbell Rogers, Assistant Engineer, Oudh and Rohilkhand Railway, or Nagmah, District Bijnour, North-Western Provinces, India, for "Rogers' Patent 'Januk' Ploughshare."

No. 73 of 1886.—Arthur Campbell Rogers, Assistant Engineer, Oudh and Rohilkhand Railway, or Nagmah, District Bijnour, North-Western Provinces, India, for "additions to Rogers' Patent Rail Road and fittings of a combined duplex automatic coupling car and lump, of automatic cleaners, of safety fenders, and of combined clamping and guide rods."

A. P. MACDONNELL,

Offg. Secretary to the Government of India.

THE CHIEF COMMISSIONER OF COORG.

NOTIFICATION.

Bangalore, 5th June, 1886.

No. 37.—In exercise of the powers conferred by Section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor-General in Council, to extend to the Chief Commissionership of Coorg the Northern India Ferries Act, 1878 (XVII of 1878), as amended by Act III of 1886, with the exception of the second and third paragraphs of Section 1, and Sections 2, 7A, 17, and 36 thereof.

By order,

E. A. FRASER,
Secretary.

FOREIGN DEPARTMENT.

NOTIFICATIONS.

Simla, the 16th June, 1886.

No. 1193 G.—The privilege leave granted by Foreign Department Notification, No. 913 G. of the 29th April, 1886, to Surgeon A. Adams, M.D., Agency Surgeon, Western Rajputana States Residency, is extended to three months.

The 17th June, 1886.

No. 1193 G.—The services of Mr. A. R. Becher, Examiner, Public Works Accounts, and Manager, Mysore State Railway, are replaced at the disposal of the Public Works Department, with effect from the 25th May, 1886.

The 15th June, 1886.

No. 2017 I.—In exercise of the powers conferred by Section 3, Clause 2, of the Indian Divorce Act, the Governor-General in Council is pleased to appoint the Political Agent in Kathiawar to be a District Judge for the purpose of the said Act.

The 16th June, 1886.

No. 2040 I.—In exercise of the powers conferred by Section 12 of the Code of Criminal Procedure, the Governor-General in Council is pleased to invest Lieutenant R. D. C. Davies, Assistant Cantonment Magistrate of Mhow, with the powers of a Magistrate of the 2nd Class, to be exercised within the limits of the Mhow Cantonment.

No. 2051 I.—In exercise of the powers conferred by Section 28 of Act III of 1880, the Governor-General in Council is pleased to invest Lieutenant R. D. C. Davies, Assistant Cantonment Magistrate of Mhow, with power to try breaches of any rules or regulations made under Section 25 of the said Act and applying to the said Cantonment.

The 15th June, 1886.

No. 1085 F.—In modification of the Notification by the Government of India in the Foreign Department, No. 2135 E P., dated the 2nd July, 1880, the Governor-General in Council is pleased to direct that the first sentence of the fourth clause of the 1st paragraph of the said Notification shall be read as follows:—

"The Commissioner and Superintendent, for the time being, of the Peshawar Division, shall exercise the powers of a Court of Session as described in Act X. of 1872, within such tract"; and

in the last paragraph of the said Notification, in place of the words "the said Officer Commanding Her Majesty's Forces," shall be read "the said Commissioner and Superintendent of the Peshawar Division."

H. M. DURAND,

Secretary to the Government of India.

DEPARTMENT OF FINANCE AND COMMERCE.

NOTIFICATIONS.

ACCOUNTS AND FINANCE.

Simla, the 16th June, 1886.

No. 1409.—In continuation of Notifications No. 1470 of the 26th March and No. 900 of the 20th May, 1886, His Excellency the Governor-General in Council is pleased to declare that Subsection (1) of Section 7 of the Indian Securities Act of 1886 applies to the Office of Commanding Officers of Regiments.

PAPER CURRENCY.

The 16th June, 1886.

No. 1461.—Abstract of the Accounts of the Department of Issue of Paper Currency on the 31st May, 1886, published as required by Section 27 of the Indian Paper Currency Act, XX of 1882.

CIRCLES OF ISSUE.	Whole amount of Notes in circulation.	RESERVE IN SILVER COIN AND BULLION.		
		Coin.	Bullion.	Total.
	Rs.	Rs.	Rs.	Rs.
Calcutta	5,66,50,115	1,53,56,051	64,77,304	2,18,13,355
Allahabad	65,76,885	25,47,920	...	25,47,920
Lithore	79,80,110	30,98,840	...	30,98,840
Bombay	4,33,48,010	1,01,88,004	43,78,500	2,33,00,000
Mumbai	66,78,115	81,04,085	17,700	81,21,785
Madras	1,74,44,845	1,03,74,510	3,30,000	1,07,04,510
Calcut	10,37,405	18,70,875	...	18,70,875
Rangoon	25,05,505	33,07,915	...	33,07,915
Total	14,10,87,830	7,05,00,230	1,11,83,000	8,16,83,230

Price paid for Government Securities of the nominal value of Rs. 6,25,21,700 held under Section 19 of the Act 5,00,05,000

GRAND TOTAL 14,10,87,830

SEPARATE REVENUE.

ASSESSED TAXES.

INCOME TAX.

The 16th June, 1886.

No. 1422.—In exercise of the powers conferred by Section 38 of Act II of 1886, the Governor-General in Council is pleased to declare that the Provident Fund of the Oudh and Rohilkund Railway Company shall be deemed to be a "Service Fund" within the meaning of Rule 13 of the Notification of the Government of India, Department of Finance and Commerce, No 593, dated the 5th February, 1886.

SEPARATE REVENUE.

ASSESSED TAXES.

The 14th June, 1886.

No. 1393.—In exercise of the powers conferred by Section 38 of Act II of 1886, the Governor-General in Council is pleased to rule—

(1) Contributions made by the employes of the Bombay Port Trust to the Provident Fund established for their benefit, to whom clause (g) of Section 5 of Act II of 1886 does not apply, shall be exempt from liability to assessment under that Act on the same conditions and to the same extent as sums deducted from salary under the authority or with the permission of the Government are exempt under the said clause.

(2) The Provident Fund of the Bombay Port Trust shall be deemed to be a "Service Fund" within the meaning of Rule 13 of the Notification of the Government of India in the Department of Finance and Commerce, No. 593, dated the 5th February, 1886.

D. M. BARBOUR,

Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 18th June, 1886.

APPOINTMENTS.

No. 305.—The following addition is made to G. G. O. No. 432 of 1884.—

IX.—The removal of officers to the unemployed supernumerary list will necessitate their removal from the appointments named in the foregoing clauses.

No. 395.—In continuation of G. G. O. No. 188 of 1886, the following appointments are made to the Staff of the Field Force in Upper Burma:—

Major C. H. Sheppard, Madras S. C., Wing Officer, 11th Regiment, Madras Infantry, to be Deputy Judge Advocate.

Captain T. P. Cather, R.E., to be Director of Transport.

No. 397.—BRIGADE STAFF—

Major W. G. C. Halkett, Bengal S. C., Wing Commander, 30th Bengal Infantry, to be a Brigade-Major on the Establishment, *vice* Major W. V. Ellis, appointed an Assistant Adjutant-General. Dated 31st May, 1886.

No. 398.—COMMISSARIAT DEPARTMENT—

Captain E. E. MacMahon, Sub-Assistant Commissary-General for Transport, 2nd Class, and officiating Assistant Commissary-General for Transport, 4th Class, to be Sub-Assistant Commissary-General for Transport, 1st Class;

Lieutenant E. H. V. Haldane, officiating as Sub-Assistant Commissary-General for Transport, 2nd Class, to be Sub-Assistant Commissary-General for Transport, 2nd Class, —

with effect from 23rd May, 1886, *vice* Major C. Egan, Sub-Assistant Commissary-General for Transport, 1st Class, resigned.

No. 399.—HYDERABAD CONTINGENT—*1st Cavalry.*

Surgeon A. T. L. Patch, M.B., Indian Medical Service, Madras Establishment, to officiate as Medical Officer, *vice* Brigade-Surgeon G. D. Riddell, appointed Principal Medical Officer at Saakin. Dated 10th March, 1886

No. 400.—PUNJAB FRONTIER FORCE—*3rd Punjab Cavalry.*

Surgeon S. F. Bigger, M.B., to be Medical Officer, *vice* Surgeon J. G. Hancock, transferred to the 5th Punjab Cavalry. Dated 15th April, 1886.

5th Punjab Cavalry.

Surgeon J. G. Hancock, Medical Officer, 3rd Punjab Cavalry, to be Medical Officer, *vice* Surgeon-Major C. P. Costello, appointed Medical Storekeeper, Meeran Meer. Dated 15th April, 1886.

6th Punjab Infantry.

Lieutenant H. G. Burton, Somersetshire Light Infantry, officiating Wing Officer, on probation, 16th Madras Infantry, to be officiating Wing Officer, on probation. Dated 30th May, 1886.

No. 401.—STAFF CORPS—

Lieutenant the Hon'ble H. D. Napier, King's Own Borderers, has been appointed on probation to the Bengal Staff Corps, with effect from the 19th May, 1886, and has been posted to a Corps under the Government of India.

FURLOUGH AND LEAVE.

No. 402.—The under-mentioned officers have been granted extensions of furlough by the Secretary of State for India.—

Captain H. J. W. Jerome, R.E., (p. a.) for six months.

Surgeon-Major T. Moloney, M.D., (m. c.) for six months.

LONDON GAZETTE.

No. 403.—The following extract is published for general information:—

"London Gazette," dated the 14th May, 1886, page 2335.

"INDIA OFFICE;

14th May, 1886.

The Queen has approved of the following Promotions among the Officers of the Staff Corps and Indian Military Forces made by the Governments in India:—

BENGAL STAFF CORPS.*To be Majors.*

Captain and Brevet-Major Leslie Trevor Bishop. Dated 2nd March, 1886.

Captain Lewis Archibald Charles Cook. Dated 2nd March, 1886.

Captain and Brevet-Major George Lloyd Reilly Richardson. Dated 23rd March, 1886.

BENGAL CAVALRY.*To be Lieutenant-Colonel.*

Major Frederick Wood Macmullen. Dated 20th March, 1886.

BENGAL INFANTRY.*To be Lieutenant-Colonels.*

Major Charles Lewis Prendergast. Dated 4th March, 1886.

Major and Colonel Revell Eardley-Wilmot. Dated 4th March, 1886.

Major Henry Lachlan Young. Dated 4th March, 1886."

* * * *

PROMOTIONS.

No. 404.—The following promotions are made, subject to Her Majesty's approval:—

To be Colonels in the Army.

Lieutenant-Colonel George Gordon Young, Bengal S. C.,—13th June, 1886.

Lieutenant-Colonel Edward Charles Garstin, Bengal S. C.,—13th June, 1886.

Lieutenant-Colonel Ayrton Pullan, Bengal S. C.,—14th June, 1886.

Lieutenant-Colonel Robert Blackall Graham, Bengal S. C.,—14th June, 1886.

Lieutenant-Colonel Edward James Watson, Madras S. C.,—14th June, 1886.

Lieutenant-Colonel James FitzGerald, Bengal S. C.,—16th June, 1886.

BENGAL STAFF CORPS.*To be Captain.*

Lieutenant Hugh Frederick Lyons-Montgomery,—13th June, 1886.

No. 405.—COLONEL'S ALLOWANCE—

Colonel Bendyshe Walton, C.I.E., Bengal S. C., is admitted to the Colonel's allowance,—16th June, 1886.

No. 406.—NATIVE ARMY—*10th Bengal Lancers.*

Duffadar Azim Khan to be Jemadar, *vice* Jemadar Ahmed Khan, promoted;

Duffadar Kashi Nand to be Jemadar, *vice* Jemadar Sedú Singh, transferred to the 16th Bengal Cavalry,—

with effect from the 18th September, 1885.

15th Bengal Cavalry.

Jemadar Abdulláh Khán to be Ressaidar, *vice* Ressaidar Háfiz Muhammad Nawáz Khan, promoted;

Kot-Duffadar Ghulám Hasan Khán to be Jemadar, *vice* Jemadar Muhammad Yúsaf Khán, promoted,—

with effect from the 18th September, 1885.

16th Bengal Cavalry.

Jemadar Hem Ráj to be Ressaidar to fill an existing vacancy, with effect from the 18th June, 1886.

No. 407.—PUBLIC WORKS DEPARTMENT—

Sergeant James Battman to be Sub-Conductor, with effect from the 19th March, 1886, *vice* Sub-Conductor J. Adams, retired.

REWARDS.

No. 408.—The following promotion for services during the late operations at Suakin is made, with effect from this date, under the provisions of clause 48, India Army Circulars, 1884:—

Subordinate Medical Department.

Second Grade Senior Apothecary William Wade to be First Grade Senior Apothecary.

E. H. H. COLLEN, *Lieut.-Colonel,*

Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

NOTIFICATION.

Simla, the 18th June, 1886.

Under clause 26 of the Regulations appended to the Regimental Debts Act of 1863, it is notified that reports of the deaths of the undermentioned commissioned officers, on the dates specified, were received in the Military Department between the 5th and the 18th June, 1886:

Corps.	Rank and Names.	Date of Death.	Place of Death.	Testate or Intestate.	Remarks.
Royal Artillery ..	The Hon'ble Major-General T. E. Hughes, C.I.E.	24th May, 1886	Simla ...	...
Bombay Staff Corps (attached to Malwa Bheel Corps).	Lieutenant P. A. Watson ...	28th May, 1886	Sirdarpur ...	...

E. H. H. COLLEN, *Lieut.-Colonel*.*Offg. Secretary to the Government of India.*

PUBLIC WORKS DEPARTMENT.

NOTIFICATIONS.

Simla, the 14th June, 1886.

No. 152.—Mr. W. C. Furnivall, Chief Engineer, 2nd Class, is permitted to retire from the service, with effect from the 19th May, 1886, under the terms of Finance Department Resolution No. 449, dated 18th April, 1884.

The 17th June, 1886.

No. 153.—Mr. A. Campbell, Executive Engineer, 1st Grade, North-Western Provinces and

No. 156.—The following promotions are made in the Superior Accounts Establishment, with effect from the 7th May, 1886:

Oudh, retired from the service, with effect from the 11th May, 1886, under Section 110 (1) of the Civil Pension Code.

No. 154.—Mr. W. F. O'Donoghue, Examiner, 4th Class, 2nd Grade, sub. *pro tem.*, Supernumerary, reverted to Examiner, 4th Class, 3rd Grade, sub. *pro tem.*, with effect from the 1st May, 1886, when he ceased to be Joint Auditor of the Accounts of the Southern Mahratta Railway Company.

No. 155.—The services of Mr. E. S. Farrant, Executive Engineer, 3rd Grade, Punjab, are temporarily placed at the disposal of the Foreign Department.

Names.	From	To
Lieutenant-Colonel P. Lambert, R.E.	Examiner, 1st Class, sub. <i>pro tem.</i>	Examiner, 1st Class, permanent.
Major W. J. LeBreton, B.S.C.	Examiner, 2nd Class, sub. <i>pro tem.</i>	Examiner, 2nd Class, permanent.
Major F. A. Trevor, R.E.	Examiner, 2nd Class, temporary	Examiner, 2nd Class, permanent.
Major F. G. Oldham, R.E.	Examiner, 3rd Class, sub. <i>pro tem.</i>	Examiner, 3rd Class, permanent.
Mr. R. K. Williams	Examiner, 3rd Class, sub. <i>pro tem.</i>	Examiner, 3rd Class, permanent.
Mr. C. C. Hatold	Examiner, 4th Class, 1st Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 1st Grade, permanent.
Major J. S. Biscoe, S.C.	Examiner, 4th Class, 1st Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 1st Grade, permanent.
Mr. G. H. D. Walker, B.A.	Examiner, 4th Class, 1st Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 1st Grade, permanent.
Mr. F. R. Hutchinson	Examiner, 4th Class, 1st Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 1st Grade, permanent.
Mr. F. L. Brown	Examiner, 4th Class, 2nd Grade, permanent.	Examiner, 4th Class, 1st Grade, permanent.
Mr. H. Stuart	Examiner, 4th Class, 2nd Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 2nd Grade, permanent.
Mr. F. E. Godfrey	Examiner, 4th Class, 2nd Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 2nd Grade, permanent.
Mr. W. G. Bayly, B.A.	Examiner, 4th Class, 2nd Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 2nd Grade, permanent.
Major H. R. LeM. Carey, S.C.	Examiner, 4th Class, 2nd Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 2nd Grade, permanent.
Mr. J. B. Braddon	Examiner, 4th Class, 2nd Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 2nd Grade, permanent.
Mr. S. M. Johnson	Examiner, 4th Class, 3rd Grade, permanent.	Examiner, 4th Class, 2nd Grade, permanent.
Captain C. R. Hoskyn, R.E.	Examiner, 4th Class, 3rd Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 3rd Grade, permanent.
Mr. W. F. O'Donoghue	Examiner, 4th Class, 3rd Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 3rd Grade, permanent.

Names.	From	To
Mr. W. F. Barrow	... Examiner, 4th Class, 3rd Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 3rd Grade, permanent.
Mr. A. T. Goodfellow	... Examiner, 4th Class, 3rd Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 3rd Grade, permanent.
Pandit Prem Nath	... Examiner, 4th Class, 3rd Grade, sub. <i>pro tem.</i>	Examiner, 4th Class, 3rd Grade, permanent.
Mr. A. Grant	... Deputy Examiner, 1st Grade, sub. <i>pro tem.</i>	Deputy Examiner, 1st Grade, permanent.
Mr. W. Ogden	... Deputy Examiner, 1st Grade, sub. <i>pro tem.</i>	Deputy Examiner, 1st Grade, permanent.
Mr. E. H. Johns	... Deputy Examiner, 1st Grade, sub. <i>pro tem.</i>	Deputy Examiner, 1st Grade, permanent.
Mr. R. A. English	... Deputy Examiner, 1st Grade, sub. <i>pro tem.</i>	Deputy Examiner, 1st Grade, permanent.
Mr. A. G. Harrison	... Deputy Examiner, 1st Grade, sub. <i>pro tem.</i>	Deputy Examiner, 1st Grade, permanent.
Mr. J. S. Partridge	... Deputy Examiner, 1st Grade, sub. <i>pro tem.</i>	Deputy Examiner, 1st Grade, permanent.
Mr. H. Rainier	... Deputy Examiner, 1st Grade, sub. <i>pro tem.</i>	Deputy Examiner, 1st Grade, permanent.
Mr. S. K. L. Yeats	... Deputy Examiner, 2nd Grade, sub. <i>pro tem.</i>	Deputy Examiner, 2nd Grade, permanent.
Mr. R. C. F. Volkers	... Deputy Examiner, 2nd Grade, sub. <i>pro tem.</i>	Deputy Examiner, 2nd Grade, permanent.
Mr. W. E. Curry	... Deputy Examiner, 2nd Grade, sub. <i>pro tem.</i>	Deputy Examiner, 2nd Grade, permanent.
Mr. W. C. Hickie	... Deputy Examiner, 2nd Grade, sub. <i>pro tem.</i>	Deputy Examiner, 2nd Grade, permanent.
Mr. G. H. LeMaistre	... Deputy Examiner, 2nd Grade, sub. <i>pro tem.</i>	Deputy Examiner, 2nd Grade, permanent.
Mr. F. M. Woodroffe	... Deputy Examiner, 2nd Grade, sub. <i>pro tem.</i>	Deputy Examiner, 2nd Grade, permanent.
Mr. J. J. Lenchau	... Deputy Examiner, 2nd Grade, temporary rank.	Deputy Examiner, 2nd Grade, permanent.
Mr. E. J. Neuville	... Deputy Examiner, 2nd Grade, officiating.	Deputy Examiner, 2nd Grade, permanent.
Mr. C. E. Ross	... Assistant Examiner, 1st Grade, sub. <i>pro tem.</i>	Assistant Examiner, 1st Grade, permanent.

The 18th June, 1886.

No. 157.—Major C. W. I. Harrison, R.E., Superintending Engineer, 2nd Class, sub. *pro tempore*, is temporarily transferred from the North-Western Provinces and Oudh to Bengal, and appointed to officiate as Chief Engineer and Joint Secretary to that Government, during the absence of Colonel J. M. McNeile, R.E., on furlough, or until further orders.

Mr. A. J. Hughes, Superintending Engineer, 3rd Class, *temporary rank*, is temporarily transferred from Bengal to North-Western Provinces and Oudh, *vice* Major Harrison, R.E.

No. 159.—Mr. W. A. Lesmond, Executive Engineer, 3rd Grade, State Railways, is appointed to officiate as Engineer-in-Chief of the Assam-Bihar State Railway, during the absence on privilege leave of Mr. F. B. Walker, or until further orders.

No. 160.—The services of Mr. P. Duncan, Executive Engineer, 3rd Grade, State Railways, are placed at the disposal of the Indian Midland Railway Company, with effect from the 15th February, 1886.

TELEGRAPH.

The 18th June, 1886.

No. 158.—The following officiating appointments are made in the Indian Telegraph Department, with effect from the dates specified.

Names.	From	To	Dates.
Mr. W. F. Melhuish	... Superintendent, 2nd Grade	Officiating Superintendent, 1st Grade.	26th May, 1886.
Mr. M. R. Trower	... Superintendent, 3rd Grade	Officiating Superintendent, 2nd Grade.	26th May, 1886.
Mr. E. A. Boyd	... Superintendent, 5th Grade, and officiating Superintendent, 4th Grade.	Officiating Superintendent, 3rd Grade.	26th May, 1886.
Mr. W. R. Philipps	... Assistant Superintendent, 1st Grade, and officiating Superintendent, 5th Grade.	Officiating Superintendent, 4th Grade.	26th May, 1886.
Mr. T. R. G. Cadiz	... Assistant Superintendent, 1st Grade.	Officiating Superintendent, 5th Grade.	9th May, 1886.
Sir W. M. N. Young, <i>Bart.</i>	... Assistant Superintendent, 1st Grade.	Officiating Superintendent, 5th Grade.	26th May, 1886.

W. S. TREVOR, *Colonel,*
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 19, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th June, 1886, and is hereby promulgated for General information:—

ACT NO. XIV OF 1886.

An Act to amend the North-Western Provinces Rent Act, 1881.

11 of 1881. WHEREAS it is expedient to amend the North-Western Provinces Rent Act, 1881; It is hereby enacted as follows:—

1. This Act may be called the North-Western Provinces Rent Act, 1886; and it shall come into force at once.

11 of 1881. 2. For the last paragraph of section 95 of the North-Western Provinces Rent Act, 1881, the following shall be substituted, namely:—

11 of 1870. "For the purposes of the Court-fees Act, 1870, the amount of fee payable in the cases next hereinafter mentioned shall be computed as follows:—

"(i) in applications under clause (c), and in appeals from orders passed on applications under that clause, as in a suit for possession of the land to which the application or appeal relates;

"(ii) in applications under clauses (l), (n), (o) and (p), and in appeals from orders passed on applications under clauses (d), (e), (f), (l), (n), (o), (p), (q) and (s), according to the rent of the land to

which the application or appeal relates payable for the year next before the date of presenting the application, or, if in any case the fee cannot be so computed, then according to the annual letting value of the land as estimated by the applicant or appellant, as the case may be;

"(iii) in applications under clause (m), and in appeals from orders passed on applications under clauses (j), (m) and (l), according to the amount claimed in the application or in the petition of appeal, as the case may be."

New sections inserted after section 100 of same Act. 3. After section 100 of the same Act the following sections shall be inserted, namely:—

"100A. The Board may, on cause shown to its Power of Board to satisfaction, transfer any transfer business. suit, application or appeal, or class of suits, applications or appeals, from any Court of Revenue to any other Court of Revenue competent as regards the nature of the case or class of cases to deal therewith under the provisions of this Act.

"100B. (1) The Commissioner of a Division Commissioners may may, with the sanction of transfer appeals. the Local Government, transfer any appeal or class of appeals pending before himself to any Collector of a district within his Division.

"(2) The order passed by a Collector on an appeal transferred to him by the Commissioner under sub-section (1) shall be subject to appeal and revision in the same manner as if it had been passed by the Commissioner, and not otherwise.

"(3) The Local Government may by order recall any appeal transferred to a Collector under

sub-section (1), and refer it for disposal to the Commissioner of the Division by whom it was transferred."

4. For the last paragraph of section 169 of the same Act the following shall be substituted, namely:—

"The provisions of sections 74 to 78 (both inclusive) and section 80 shall, so far as they can be made applicable, apply to the sale of the property as if the terms 'distress,' 'distressed property' and 'distraint' included respectively the execution of a writ against moveable property, moveable property taken in execution of a writ and a judgment-creditor."

5. In section 189 of the same Act, after the words "one hundred rupees, or" the following shall be inserted, namely:—

"in which the rent payable by the tenant has been a matter in issue and has been determined, or"

6. In the same Act the last twelve words of section 193, 196 and section 196, the last twelve words of clause (a) of both sections 193 and 196, and the last six words of section 197, are repealed.

7. In section 194 of the same Act the word "other" is repealed; and in clause (b) of the same section, for the word and figures "section 99" the words and figures "sections 99 and 100" shall be substituted.

Substitution of new section for section 195 of same Act.

8. For section 195 of the same Act the following shall be substituted, namely:—

"195. The orders of an Assistant Collector of the first class on applications mentioned in section 95 shall be final."

9. In section 198 of the same Act, for the word and figures "section 100" the words and figures "sections 99 and 100" shall be substituted.

10. In section 199 of the same Act, after the words "The Board may" the words "notwithstanding anything hereinbefore contained" shall be inserted.

11. In section 211, after clause (d) the following shall be inserted, namely:—

"(e) as to the transfer of appeals to Collectors under section 100B."

12. Nothing in this Act shall confer a right to appeal from any decision passed before the coming into force of this Act from which an appeal would not have lain if this Act had not been passed.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the North-Western Provinces Rent Act, 1881, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th May, 1886:—

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill to amend the North-Western Provinces Rent Act, 1881, was referred, have the honour to report that the Government of the North-Western Provinces and Oudh, while approving the Bill as introduced, has recommended the addition to it of a clause making the provisions of section 80 of the Act of 1881 applicable to sales of moveable property in execution of decrees under that Act.

2. We approve the Bill, and have added to it the clause proposed by the Local Government.

3. The Bill has been published as follows:—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	20th and 27th February, and 6th March, 1886.
North-Western Provinces and Oudh Government Gazette	27th February, and 6th and 13th March, 1886.

4. The Bill has not in our opinion been so altered as to require re-publication, and we recommend that it be passed as amended by us.

C. P. ILBERT.

S. C. BAYLEY.

A. COLVIN.

W. W. HUNTER.

The 20th May, 1886.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th June, 1886, and is hereby promulgated for general information :—

ACT NO. XV OF 1886

An Act to amend the North-Western Provinces Land-revenue Act, 1873.

WHEREAS it is expedient to amend the North-Western Provinces Land-revenue Act, 1873, in manner hereinafter appearing; It is hereby enacted as follows :—

New section inserted after section 11. 1. After section 11 the following section shall be inserted, namely :—

“11A. (1) The Local Government may, from time to time, with the previous sanction of the Governor General in Council, appoint an Additional Commissioner in a Division.

“(2) An Additional Commissioner shall hold his office during the pleasure of the Local Government.

“(3) An Additional Commissioner shall exercise such powers, and discharge such duties, of the Commissioner of the Division under this Act, or under any other law for the time being in force, as the Local Government may, from time to time, prescribe, but only in such cases as the Commissioner of the Division may direct.

“(4) This Act and every other law for the time being applicable to the Commissioner of the Division shall apply to the Additional Commissioner, when exercising any powers or discharging any duties under sub-section (3), as if he were the Commissioner of the Division.”

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the North-Western Provinces Land-revenue Act, 1873, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th May, 1886 :—

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill to amend the North-Western Provinces Land-revenue Act, 1873, was referred, have the honour to report that the Bill has been accepted by the Government of the North-Western Provinces and Oudh, and is approved by us.

2. The Bill has been published as follows :—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	20th and 27th February, and 6th March, 1886.
North-Western Provinces and Oudh Government Gazette	27th February, and 6th and 13th March, 1886.

3. We recommend that the Bill be passed without alteration.

C. P. ILBERT.
S. C. BAYLEY.
A. COLVIN.
W. W. HUNTER.

The 20th May, 1886.

S. HARVEY JAMES


Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 19, 1886.

 Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations,
or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was referred to a Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th June, 1886 :—

NO. 7 OF 1886.

*A Bill to consolidate and amend the law relating
to rent in Oudh.*

NOTE.—The 'marginal quotations' refer to portions of sections of the Oudh Rent Act omitted from the Bill.

WHEREAS it is expedient to consolidate and
amend the law relating to
rent in Oudh and to other
matters connected therewith; It is hereby enacted
as follows :—

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as the Oudh Rent
Short title and extent. Act, and shall extend only
to Oudh.

2. *Act XIX of 1868 is hereby repealed, but
Repeal of Act XIX of all notifications published
1868. and rules made under the
repealed Act shall, so far as they are consistent
with the present Act, be deemed to have been pub-
lished and made hereunder.*

3. In this Act, unless there be something re-
Interpretation-clause. pugnant in the subject or
context,—

"Oudh" means the territories under the ad-
"Oudh." ministration of the Chief
Commissioner of Oudh at
the time of the passing of this Act :

"Court" means any judicial officer presiding
"Court." in a Court of Revenue for
the disposal of matters under
this Act :

*The Oudh Rent Bill.**(Chapter I.—Preliminary.—Section 3.)*

"Suit."

"suit" means a suit under this Act :

"Assistant Commissioner" includes an Extra Assistant Commissioner :

"Assistant Commissioner."

"land" applies only to land assessed to the land-revenue, and includes land whereof the revenue has been assigned by Government ; it also includes the ungathered produce of land, whether spontaneous or otherwise, and whether growing in earth or water :

"Land."

"revenue" means the money payable to the Government on account of land :

"Revenue."

"rent" means the money, or the portion of the produce of land, payable on account of the use or occupation of land, or of any right in land, or on account of the use of water for irrigation :

"Rent."

"proprietor" does not include an under-proprietor. Where there are two private rights of property, one superior and the other subordinate, in the same land, "proprietor" means the holder of the superior right only :

"Proprietor"

"proprietary right" means a proprietor's right in land :

"Proprietary right."

"under-proprietor" means any person possessing a heritable and transferable right of property in land for which he is liable to pay rent :

"Under-proprietor."

"under-proprietary right" means an under-proprietor's right in land :

"Under-proprietary right."

"tenant" means any person, not being an under-proprietor, who is liable to pay rent. In the following sections of this Act, 7, 10, 13, 14, 15, 18, 19, 26, 28, 39, 40, 41, 42, 43, 43 (A), 83, 101, 111 and 114, but in no others, the expression "tenant" shall be held to include a thikadār or person to whom the collection of rents in a village or portion of a village has been leased by the landlord :

"Tenant."

"landlord" means any person to whom an under-proprietor or tenant is liable to pay rent :

"Landlord."

"representative" means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person. It includes the guardian of a minor and the legal curator of a lunatic or idiot : and

"Representative."

"lambardār" means any person who has executed an engagement for the payment of the revenue to Government, or for the payment to a landlord of the rent due from under-proprietors holding a sub-settlement :

"Lambardār."

"prescribed" means prescribed from time to time by the Local Government by rules made under

"Prescribed."

this Act.

The Oudh Rent Bill.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 4-7.)

[Act VIII, 1885, section 178]

4. *Nothing in any contract made between a landlord and a tenant before or after the passing of this Act shall entitle a landlord to eject a tenant or enhance his rent otherwise than in accordance with the provisions of this Act.*

Nothing in any contract made between a landlord and a tenant after the passing of this Act shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them :

Provided that nothing in this section shall affect the terms or conditions of a lease granted bonâ fide for the reclamation of waste land.

CHAPTER II.

OF CERTAIN RIGHTS AND LIABILITIES OF LANDLORDS, UNDER-PROPRIETORS AND TENANTS.

Right of Occupancy.

5. *Tenants who have lost all proprietary right, whether superior or subordinate, in the lands which they hold or cultivate, shall, so long as they pay the rent payable for the same according to the provisions of this Act, have a right of occupancy under the following rule :—*

Every such tenant who, within thirty years next before the thirteenth day of February, 1856, has been, either by himself, or by himself and some other person from whom he has inherited, in possession as proprietor in a village or estate, shall be deemed to possess a heritable but not a transferable right of occupancy in the land which he cultivated or held in such village or estate on the twenty-fourth day of August, 1866 : provided that such land has not come into his occupation, or the occupation of the person from whom he has inherited, for the first time since the said thirteenth day of February, 1856 : provided also that no such tenant shall have a right of occupancy in any village or estate in which he or any co-sharer with him possesses any under-proprietary right.

Nothing contained in the former part of this section shall affect the terms of any agreement in writing hereafter entered into between a landlord and tenant.

5. (A). *Nothing contained in section 5 shall be deemed to restrict the power of the landlord to confer on any persons other than those therein mentioned a right of occupancy in the lands which they hold or cultivate.*

6. *If a tenant having a right of occupancy be ejected, in accordance with the provisions of section 37, from the land in which he possesses such right, he shall thereupon lose his right of occupancy in such land.*

Tenants' Right to Pattas.

7. *Every tenant is entitled to receive from his landlord a patta or memorandum of the terms of the holding, signed by him*

The Oudh Rent Bill.

(Chapter II.—Of certain Rights and Liabilities of Landholders, Under-proprietors and Tenants.—Sections 8-13.)

or his authorized agent, and containing the following particulars:—

the quantity of land and, where the fields comprised in the *patta* have been numbered in a Government survey, the number of each field:

the term for which the *tenancy is to run*:

the amount of rent payable:

the instalments in which and the times at which the same is to be paid:

and, if the rent is payable in kind, the proportion of produce to be delivered, and the time, manner and place of delivery.

[any special conditions of the lease:]

8. Tenants having a right of occupancy are entitled to receive *pattas* having right of occupancy is entitled. at rates of rent determined in accordance with the provisions contained in sections 32, 33 and 34.

9. Tenants not having a right of occupancy are entitled to *pattis* for *Patta* to which tenant not having right of occupancy is entitled. the terms and at the rates prescribed in Chapter IV (B) of this Act.

Landlords' Right to Counterparts.

10. Every landlord who grants a *patta* is landlord entitled to receive from the tenant a counterpart executed by him.

II. *Vide* section 43 (A).

Arrears of Revenue or Rent.

12. Any instalment of revenue or rent which is not paid on or before the day when the same becomes due, whether under a written agreement or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrear of revenue or rent, as the case may be:

Provided that, unless the proprietor and under-proprietor shall have otherwise agreed in writing, the rent payable to the former by the latter shall be held to become due one month before the date fixed for the payment of the revenue on account of the village in which the land in respect of which such rent is payable is situate, and to be payable in the same number of instalments as the said revenue; and the amount of each instalment of such rent shall bear the same proportion to the whole of such rent payable for the year as the amount of each instalment of such revenue bears to the whole of such revenue payable for the year.

Receipts.

13. Receipts for rent and acknowledgments of the tender of rent shall specify the year or years on account of which it has been paid or tendered; and any refusal to make such specification shall be held to be a withholding of a receipt or acknowledgment.

If such receipt or acknowledgment is withheld from any under-proprietor or tenant without sufficient cause, he may recover compensation from the landlord, not exceeding the amount so paid or tendered.

The Oudh Rent Bill.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 14-15.)

Deposit of Revenue or Rent in Court without Suit.

[having a right of occupancy, or holding under an unexpired lease or under an agreement or decree]

14. If any co-sharer, under-proprietor, or tenant ^{Power to pay into Court, without suit brought, amount of revenue or rent due.} shall, at the place where the revenue or rent of the land held or cultivated by him is usually payable, tender to the person authorized to receive the same payment of the full amount of such revenue or rent due in respect of such land, and if such amount is not accepted and a receipt in full forthwith granted, it shall be lawful for the co-sharer, under-proprietor or tenant, without any suit having been instituted against him, to deposit such amount in Court to the credit of the person authorized to receive it.

Such deposit shall, so far as regards the co-sharer, under-proprietor or tenant, and all person-claiming through or under him, operate as a payment then made to the *lambardār* or landlord of the amount so deposited.

15. The Court shall receive such deposits on ^{Procedure on making and withdrawing such payment.} the written application of the co-sharer, under-proprietor or tenant, or his recognized agent; the application shall bear a stamp of eight annas, and on such co-sharer, under-proprietor, tenant or agent making a declaration in the form set forth in Schedule A hereto annexed, or as near thereto as circumstances will admit, the Court shall give him a receipt for the deposit.

Such declaration shall be verified in the manner prescribed for the verification of plaints in the Code of Civil Procedure, and the provisions of sections 52 of the said Code shall apply to the person making the verification.

Upon receiving the money so deposited, the Court shall issue to the person to whose credit it has been deposited a notice in the form set forth in Schedule B hereto annexed.

Such notice ^{Service of notice.} shall be served by the proper officer, without the payment of any fee, upon the person to whom it is addressed, or upon his recognized agent.

In the absence of any such agent, it may be served by putting up a copy of the same at the court-house, and another copy at the ordinary place of residence, within the jurisdiction of the Court, of such person, or, if there be no such place, at the place where the revenue or rent is usually paid to the *lambardār* or landlord, as the case may be, for the land in respect of which the money has been deposited.

If the person on whom such notice is served, or his recognized agent, appears and applies that the money in deposit be paid to him, it shall immediately be paid accordingly.

*The Oudh Rent Bill.**(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 16-19.)*

16. Whenever a deposit has been made under Limitation of suits for the provisions of this Act, balance of revenue or no suit shall be brought rent. against the depositor or his representative on account of any revenue or rent which accrued due in respect of the land last hereinbefore mentioned prior to the date of the deposit, unless such suit is instituted within six months from the date of the service of the notice mentioned in section 15.

17. If, at the time of passing the decision in Compensation for any such suit, the Court is non-acceptance of revenue or rent. satisfied that the full amount of revenue or rent due at the time of the deposit was tendered to, and was not accepted by, the kumbardār or landlord or his recognized agent, as the case may be, or that a receipt or acknowledgment was withheld for such amount without sufficient cause, the Court may award to such depositor compensation from the kumbardār or landlord, not exceeding the amount so paid or tendered.

If the Court be satisfied that the amount of the deposit was less than the amount of revenue or rent due, the Court shall pay the amount of the deposit to the kumbardār or landlord, and shall make a decree for the balance due by the depositor.

Illegal Enforcement of Payment of Rent.

18. If payment of rent or of any sum in excess Compensation to under-proprietor or tenant for illegal enforcement of payment. of the rent legally claimable is illegally enforced, and any under-proprietor or tenant institutes a suit to recover compensation for such enforcement, the Court may award to him compensation, not exceeding the sum of rupees two hundred, in addition to any amount for which it makes a decree in respect of such payment.

An award of compensation under the former part of this section shall not bar any prosecution to which the person enforcing such payment may be liable under any law for the time being in force.

Abatement of Rent.

19. No suit for an abatement of rent shall be Suit for abatement of rent brought by any under-proprietor or tenant, except on the ground that the area of the land has been diminished by deluvion, or on some ground specified in any lease, agreement or decree, under which he holds:

Provided that, if the under-proprietor hold a sub-settlement in a revenue-paying estate, no such abatement shall be allowed to the under-proprietor, unless a remission of revenue has been allowed on the same ground and by competent authority in the same estate.

The Oudh Rent Bill.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 20-21 (A).)

35 and 36]

[provides that if the under-proprietor hold a sub-settlement, or if the tenant hold a lease for a term of not less than five years, or have a right of occupancy in a revenue-paying estate, no such remission shall be allowed to him, unless a remission of revenue shall have been allowed on the same ground and by competent authority in the same estate]

[or unless it has been let to any other person by such landlord or agent]

Remission of Rent.

20. Notwithstanding anything contained in section 19 [] the Court, in making a decree for an arrear of rent, may allow such remission from the rent payable by any under-proprietor or tenant as appears equitable, if the area of the land in his occupation has been *materially* diminished by diluvion or otherwise, or if the produce of such land has been diminished by drought or hail, or other calamity beyond his control, to such an extent that the full amount of rent payable by him cannot, in the opinion of the Court, be equitably decreed.

Relinquishment of Land.

21. Every tenant shall continue liable for the rent of the land in his holding, unless on or before the fifteenth of March in any year he gives notice *in writing* to the landlord or his recognised agent of his desire to relinquish such land, and relinquishes it accordingly [].

If the landlord or his recognised agent refuse to receive such notice *or to sign and deliver a receipt for the same*, the tenant may, *before the latest date prescribed for giving such notice*, apply to the tahsildar or proper officer, and written notice of such desire shall thereafter be served on such landlord or agent, and the tenant shall pay the costs of service.

The notice shall, if practicable, be served personally on the landlord or agent; but if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the *choupal* or other conspicuous place in the village wherein the land is situate.

21. (A). *If a tenant voluntarily abandons his holding without informing his landlord and without arranging for the cultivation of the holding, it shall be lawful for the landlord at any time after the fifteenth of May to enter on the holding. Before a landlord enters under this section, he shall file a notice in the prescribed form with the supervisor-kauungo, stating that he has treated the holding as abandoned and is about to enter on it accordingly.*

When a landlord enters under this section, the tenant shall be entitled to institute a suit under section 83, clause 10, of this Act, to recover occupancy of the holding; and the Court shall, on being satisfied that the tenant did not voluntarily abandon his holding, order recovery of possession on such terms, if any, with respect

The Oudh Rent Bill.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 22-25.)

to compensation to persons injured and payment of arrears of rent as to the Court may seem just.

Compensations for Tenants' Improvements.

22. If any tenant, or the person from whom he has inherited, make any such improvements on the land in his occupation as are hereinafter mentioned, neither he nor his representative shall be ejected from the same land, unless and until he or his representative, as the case may be, has received compensation for the [] improvements made on the land by him, or the person from whom he has inherited, or whom he represents [].

[outlay, in money or labour, or both, expended in making such]
[within thirty years next before the date of such enhancement or ejection]

23. Except as provided in the next following section, no tenant shall be entitled to claim compensation for an improvement made subsequently to the passing of this Act without the written consent of the landlord.

24. If in any case the tenant apply to the landlord for his written consent to his making an improvement on his holding, and the landlord withhold or refuse to grant it, it shall be lawful for the tenant to apply to the Deputy Commissioner for sanction to make the improvement. The Deputy Commissioner, after taking into consideration any objections which the landlord may have to urge, either on the ground that—

- (a) the improvement is too costly or is unsuitable to the nature of the tenant's holding, or that
- (b) he is prepared to make such improvement himself,

shall grant sanction on such conditions as he may consider fair and equitable or refuse the application. No appeal shall lie against an order passed by the Deputy Commissioner under this section.

25. The word "improvements," as used in this Act, means works by which the annual letting value of the land has been, and at the time of demanding compensation continues to be, increased, and comprises—

1st.—The construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage, and for protection against floods; the construction of wells; the reclaiming and clearing of waste lands and jungles, and other works of a like nature.

2nd.—The renewal or reconstruction of any of the foregoing works, or such alterations therein or additions thereto as are not required for maintaining the same, and which increase durably their value.

The Oudh Rent Bill.(Chapter III.—*Commutation and Payment of Rent in kind.*—Sections 25A-28.)

25 (A). In estimating the
 Principles on which compensation is to be made to which a
 compensation is to be made to a tenant in respect of
 an improvement.

Act VIII, 1886, section 53

- (a) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement;
- (b) to the condition of the improvement and the probable duration of its effects;
- (c) to the labour and capital required for the making of such an improvement;
- (d) to any reduction in remission of rent or any other advantage given by the landlord to the tenant in consideration of the improvement; and
- (e) in the case of a reclamation, or of the conversion of uncultivated into irrigated land, to the length of time during which the tenant has had the benefit of the improvement.

Date, clause 2

25. (B) When a Court has assessed the amount of the compensation to be made to a tenant under the provisions of the last preceding section, it may, if both landlord and tenant desire that the compensation assessed instead of being paid wholly in money, shall be made wholly or partly in any other way, proceed to give judgment according to the terms agreed upon between them.

26. A landlord shall be entitled to make any improvement of the nature specified in section 25 on the holding of a tenant not having a right of occupancy with or without the consent of the tenant.

A landlord who proposes to make an improvement shall, if the tenant is to be constructed in the holding of a tenant, give notice to the tenant through the talukdar.

Survey and Measurement.

27. Every landlord, his agents and surveyors, may at all reasonable times enter and measure or cause to be measured any land comprised in his estate for the purpose of surveying and measuring the same.

CHAPTER III

COMMUTATION AND PAYMENT OF RENT IN KIND

28. In any district in which a settlement of revenue is in progress, if a tenant desires to have his rent commuted to kind, he shall be in the direction of any officer employed in making or revising such settlement, in any case

*The Oudh Rent Bill.**(Chapter IV.—Enhancement and fixing Rates of Rent.—Sections 30-32.)*

in which the rent of a tenant having a right of occupancy is paid in kind, or by the estimated value of a portion of the crop, to commute, on the application either of the landlord or the tenant, such rent into a rent in money.

30. Wherever rent is taken by division of the produce in kind, or by estimate of produce taken in kind, or by appraisal of the standing crop, or other procedure of a similar nature, requiring the presence both of the tenant and landlord either personally or by a recognized agent, if either party neglect to be present at the proper period, or if a dispute arise between the parties regarding such division, estimate or appraisement, either party may present an application to the Court on a paper bearing a stamp or eight annas, requesting that a proper officer be deputed to make the division, estimate or appraisement.

31. On receiving such application, the Court shall issue a written notice to the other party to attend on the date and at the place specified in the notice, and shall depute an officer before whom the division, estimate or appraisement shall be made.

The award of such officer in respect of such division, estimate or appraisement shall be final, unless, within one month from the date thereof, either party institutes a suit to set it aside.

[The amount of rent thus fixed shall be binding upon the parties concerned.]

[All decisions already passed by any such officer, commuting rents in kind or by valuation to rents in money, shall, subject to the same appeal as is given by this Act in respect of decisions passed in suits, be binding on the parties concerned.]

[29.] The Chief Commissioner of Oudh may extend the provisions of section 28, and declare officers to hear and decide cases in which a settlement of revenue is not in progress ;

and may declare that officers are empowered to hear and decide cases under this section ;

and may make rules for the guidance of officers acting under this section and section 28, and, from time to time, [with the like sanction] alter and add to the rules so made :

Provided that such rules, alterations and additions are consistent with this Act.]

CHAPTER IV

ENHANCEMENT AND FIXING RATES OF RENT.

A.—Tenants with Right of Occupancy.

32. No tenant having a right of occupancy in any land shall, in case of dispute as to the rent to be paid in respect of such land, be liable to an enhancement of the rent, except in pursuance of a decree made under this Act on one of the following grounds (that is to say) :—

1st ground.—That the rate of rent paid by him is below the rate of rent usually paid, by the same class of tenants having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding such rate.

2nd ground.—That the rate of rent paid by him is more than 12½ per cent. below the rate of rent usually paid, by tenants of the same class not having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

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(Chapter IV.—Enhancement and fixing Rates of Rent.—Sections 33-35A)

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding such rate, less 1 per cent.

3rd ground.—That the quantity of land held by him exceeds the quantity for which he has previously paid rent.

Rule.—In this case the Court shall decree rent for the land in excess, at rates to be fixed by the first or the second of the rules contained in this section, as the case may be.

Nothing contained in the previous part of this section shall affect the terms of any agreement in writing hereafter entered into between a landlord and tenant.

33 After a decision has been passed in accordance with section 32 no suit shall be for re-enhancement of such rent until the expiration of five years from the date of such decision, except on the 3rd ground, or, in the case referred to in section 31, until by re-assessment within the said term of five years the revenue of such land has been increased.

34. On such re-assessment, if the rent of such tenant cannot be enhanced under section 32 by reason of the absence of the grounds therein mentioned, the landlord may institute a suit to enhance the rent to a sum not exceeding double the average amount of the revenue imposed at such re-assessment upon land of a similar description and with similar advantages held by tenants of the same class in the same village.

B—Other Tenants.

35. Every tenant, not being a tenant with a right of occupancy, shall be entitled to obtain possession of his holding upon the payment of the rent then payable by him for a period of seven years from the date of the last charge to his rent or of the last attrition in the area of the holding.

35. (A). Every such tenant hereafter admitted to the possession of a holding shall be entitled to obtain possession of his holding upon the payment of the rent then payable by him for a period of seven years from the date of his admission at a rate agreed upon with the landlord in accordance with the provisions of this Act, and every tenant, not being a tenant with a right of occupancy, in the area of whose holding or in the amount of whose rent any charge shall be made by the landlord subsequently to the passing of this Act, shall be deemed to be admitted to the possession of a holding within the meaning of this section.

Explanation.—Holding means a parcel or parcels of land held by a tenant and forming the subject of a

*The Oudh Rent Bill.**(Chapter IV.—Enhancement and fixing Rates of Rent.—Sections 36-36 C.)*

separate engagement. Such engagement may be express or implied.

36. *If the landlord desires to enhance the rent*
Enhancement in or of the land on the expiration
of term of statutory term of the term of seven
tenancy limited. years, or, if in sections
 35 and 35 (A), or at any time the owner, he shall
 cause a notice to that effect to be served in the
 manner prescribed in section 36B. Until such
 notice is issued, the tenant shall be entitled to hold
 at the former rate.

Provided—(a) that the enhancement shall in no
case exceed one anna in the rupee or six and a
quarter per cent, on the annual rent payable when
the notice is issued,

(b) that the provisions of this section shall not
apply to a tenant paying rent in kind.

36 (A). *The notice shall be given in Hindi*
or in English, and shall state the amount of the
enhancement. The tenant, within one month of the
 present rent and the amount of the enhancement, shall
 reprove the tenant, at his own cost, to pay the
 enhancement, to vacate the land on the fifteenth
 day of May next following, or to institute a suit in
 the District Court to contest the notice of enhance-
 ment within a month from the date on which it was
 served.

36 (B). *On the application of the landlord*
Secretary to the District Court, or the Tahsildar or officer
authorized to serve such
notices, the notice shall be served by such officer on
or before the fifteenth day of February, and the
landlord shall pay the cost of service.

The notice shall, if practicable, be served
personally on the tenant. But if he cannot be
found, service may be made by affixing the
notice at his usual place of residence, or, if he
does not reside in the district wherein the land
is situate, at the village chaupal or other con-
spicuous place in the village wherein the land is
situate.

36 (C). *A tenant may*
contest an enhancement of rent on any of the following
grounds—

1st—That he holds a lease or agreement or
a decree of Court under the terms of
which he is not liable to enhance-
ment.

2nd—That he has a right of occupancy in the
land.

3rd—That the enhancement claimed is in
excess of the rate authorized by
law.

4th—That seven years have not elapsed since
the date of the last change in the rent
or alteration of the area of the holding
by the landlord.

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5th — That the notice has not been served in the manner prescribed in section 36 B.

36 (D). If the objection of the tenant is found by the Court to be invalid, or, if an suit has been instituted to contest the notice within a period of thirty days from the day on which it was served, on the expiration of such period, the tenant shall, if he retain possession of the land after the fifteenth day of May next following the date of service of the notice, be held liable for the enhanced rent.

36 (E). If the tenant accepts the enhanced rent claimed by the notice, or remains in possession of the land under the terms of the preceding section, he shall be entitled to hold the land at such rent for a further period of seven years.

36 (F). If the tenant refuses to accept the enhancement claimed and recovers the holding, he shall be entitled to recover by separate suit from the landlord compensation for any improvements made by him on the holding.

36 (G). Except in the cases mentioned in the next following section, the rent of a tenanted land shall be fixed according to the price of the land at the time of its acquisition by the Government, or at the time of its acquisition by the tenant immediately preceding

36 (H).—The rent of a tenanted land shall be fixed according to the price of the land at the time of its acquisition by the Government, or at the time of its acquisition by the tenant immediately preceding

36 (I). The Government may, at any time, fix the rent of a tenanted land at a rate not exceeding the rate fixed by the Government at the time of its acquisition by the Government, or at the time of its acquisition by the tenant immediately preceding

36 (J). Notwithstanding anything contained in the preceding sections, the Government may, at any time, fix the rent of a tenanted land at a rate not exceeding the rate fixed by the Government at the time of its acquisition by the Government, or at the time of its acquisition by the tenant immediately preceding

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to time, within periods of not less than seven years, the limits of the enhancement to which tenants, not having rights of occupancy, are liable.

36 (K). Nothing in the preceding sections shall bar the right of a landlord to an enhancement of rent on the ground that the productive powers of the land held by the tenant have been increased by an improvement effected by, or at the expense of, the landlord during the currency of the tenancy.

Where an enhancement is claimed on the ground of such an improvement, the Court in determining the amount of such enhancement shall have regard to—

- firstly—the increase in the productive powers of the land caused, or likely to be caused, by the improvement;
- secondly—to the cost of the improvement;
- thirdly—to the cost of the cultivation required for the utilisation of the improvement.

CHAPTER V.

EJECTMENT.

Tenants with Right of Occupancy.

37. No tenant having a right of occupancy, or holding under an unexpired lease, or special agreement, or decree of Court, shall be ejected otherwise than in execution of a decree for ejectment:

[Act XIX, 1868, section 11.]

Provided that, if the tenant have a right of occupancy in the land from which the landlord desires to eject him, the decree shall not be made, unless, at the date of the decree, a decree against such tenant for an arrear of rent in respect of such land has remained unsatisfied for fifteen days or upwards.

Other Tenants.

38. A tenant not having a right of occupancy, and not holding under an unexpired lease, or an agreement, or a decree of Court, may be ejected in accordance with the provisions of this Act, first, in execution of a decree for [] ejectment under section 43A or by application under section 43; or, second, by notice given by his landlord in the manner described in the next following sections.

[Act XIX, 1868, section 12.]

[arrears of rent or for]

38(A). A landlord who desires to eject a tenant on the ground of disturbance of his tenancy may serve a notice of ejectment on such tenant, but shall

*The Oudh Rent Bill.**(Chapter V.—Ejectment.—Sections 39-40.)*

deposit with the notice in the hands of the officer authorized to serve the notice a sum equal to the rent payable by the tenant for the year immediately preceding as compensation for disturbance.

In the case of a tenant paying rent as above the amount of compensation to be deposited under this section shall be a sum equal to the average annual value of the produce paid as rent during the preceding three years.

Provided that no such compensation shall be payable to a tenant in respect of so much of his holding as he has sub-let without the consent of his landlord, or in the cases provided for by sections 35 (1), 43 and 43 (A).

[Act XIX, 1868, section 43.]

39. The notice mentioned in section 38 A shall be written in Hindi and shall not be in Urdu; it shall specify the land from which the tenant is to be ejected; and if it is a notice limited he must deliver it; if he means to oppose the ejectment, he must, on that day, or within thirty days thereafter, deposit the sum of the notice, or the value of the land, on or before the fifteenth day of August following.

On the application of the landlord to the Magistrate or officer authorised to serve such notice, the notice shall be served by such officer on or before the fifteenth day of August, and the landlord shall pay the costs of service.

The notice shall, if practicable, be served personally on the tenant. But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the village *chak* or other conspicuous place in the village wherein the land is situate.

[Act XIX, 1868, section 37.]

40. A tenant on whom a notice has been served on which he is liable under section 39 may, on being served with notice, contest his liability to be ejected from the land specified therein on any of the following grounds:—

- 1st*—That he holds a lease or an agreement, or a decree of Court, under the terms of which he is not liable to such ejectment.
- 2nd*—That he has a right of occupancy in the land.
- 3rd*—If he be a tenant not having a right of occupancy, that notice of ejectment has not been served upon him in manner provided by section 39.
- 4th*—That seven years have not elapsed since the date of the last change of rent or alteration of the area of the holding.
- 5th*—That he is entitled to compensation for disturbance, and that the landlord has not deposited the sum required by this Act.

*The Oudh Rent Bill.**(Chapter V.—Ejectment.—Sections 40A-43.)*

Explanation.—A *thikedar* is not entitled to contest a notice of ejectment on any ground other than that he holds a lease under the terms of which he is not liable to ejectment.

40 (A). If the tenant has any claim for compensation for improvements effected by him on the holding, he shall file with his plaint a statement of the claim and of the grounds on which it is based.

40 (B). If the Court finds the objections of the tenant to be invalid, it shall determine the amount of the compensation, if any, due for improvements, and shall declare the ejectment to be conditional on payment of that amount into Court.

41. If the tenant on whom such notice of ejectment has been served fails, if notice is not contested, to comply with the terms of the notice, to institute a suit to establish his liability to be ejected, his tenancy of the land in respect of which the notice has been served shall be held to cease on the 31st day of May next following, unless, after the service, the landlord has expressly authorised him to continue to occupy the land.

[Act XIX, 1868, section 41.]

42. If no such suit is instituted, and the tenant has not paid the amount of the compensation, if any, determined by the Court, the Court may, at any time, order the landlord to require the tenant to pay the amount of the compensation into Court, and if the Court is satisfied that notice of ejectment was duly served on such person, and that he has not paid the amount of the compensation, it shall give such assistance as may be necessary.

[Ditto, section 15.]

Provided that nothing done by the Court under the previous part of this section shall affect the right of any tenant to recover a suit for his land or on account of alleged ejectment, and to recover compensation for the same.

[under the provisions of section 11]

43. If a landlord desires to evict a tenant, and the tenant has not paid the amount of the compensation, if any, determined by the Court, the landlord may apply to the Court for an order directing the tenant to pay the amount of the compensation into Court, and if the Court is satisfied that notice of ejectment was duly served on such person, and that he has not paid the amount of the compensation, it shall give such assistance as may be necessary.

[Act XIX, 1861, section 35.]

If the amount be not so paid, the Deputy

*The Oudh Rent Bill.**(Chapter V.—Ejectment.—Sections 43A-46 A.)*

Commissioner shall, unless good cause be shown to the contrary, eject the tenant.

[Act VIII, 1895, section 25.]

43 (A). A decree for ejectment may be passed against a tenant on the ground—

(a) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of his tenancy; or,

(b) where the rent is payable in kind, that his cultivation has diminished to a point which by the custom of the locality involves the forfeiture of the holding.

The tenant shall continue liable for the rent of the land until the decree is executed.

General.

[except a sub-lessor]

[Act XIX, 1868, section 38.]

44. No tenant [] shall in any case, whether in execution of a decree or otherwise, be ejected from the land in his occupancy, except between the first day of April and the fifteenth day of June in any year after the passing of this Act [].

[unless, while his rent is in arrear, he has failed to cultivate the land in his possession in accordance with the terms on which he holds it]

[Act XIX, 1868, section 39.]

45. A *thikadār* liable to be ejected under the provisions of this Act may be ejected at any time during his tenancy.

46. Any tenant ejected in accordance with the provisions of this Act shall be entitled to receive from the landlord the value of any growing crops or other ungathered products of the earth belonging to such tenant, and being on the land at the time of his ejectment:

Provided that, if the land shall have been sown or planted by the tenant after the service on him of the notice mentioned in section 39, he shall not be so entitled, unless, after such service, the landlord has expressly authorised him to continue to occupy the land.

Sir lands.

46 (A). The rights conferred upon tenants by sections 24, 35, 35(A), 36, 36(A), 36(B), 36(C), 36(D), 36(E), 36(F), 36(G), 36(H), 36(I) and 36(J) shall not accrue to cultivators of any of the following lands:—

(a) Land which for the seven years immediately preceding the passing of this Act has been continuously dealt with as *sir* in the distribution of proprietary profits and charges. This condition shall be presumed, until the contrary is proved, where land was recorded as *sir* at settlement and has been continuously so recorded since:

(b) Land which for the seven years immediately preceding the passing of this Act has been continuously cultivated

*The Oudh Rent Bill.**(Chapter VI.—Distress for Arrears of Rent.—Sections 46B-50.)*

by the proprietor himself or by his servants or by hired labour.

46 (B). *A person holding land as a thikadār or mortgagee shall not, while so holding, acquire any of the rights enumerated in the preceding section in any of the land comprised in his thika or mortgage.*

Explanation.—A person having such rights in land does not lose them by subsequently taking a thika or mortgage in which his holding is comprised

CHAPTER VI.

DISTRESS FOR ARREARS OF RENT.

47. When an arrear of rent is due from any tenant, the landlord may recover of arrears of rent by distress. *distrain the produce of the land in respect of which the arrear is due, subject to the rules contained in the following sections:*

Provided that, when a tenant has given security for the payment of his rent, the produce of the land in respect of which such rent is payable shall not be liable to distress so long as the security is in force.

48. Distress shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable in the last preceding year for the land in respect of which the arrear is due, unless the tenant has agreed in writing to pay such excess, or unless he has been declared to be liable for the same by a decree of Court.

49. The power of distress vested by section 47 in landlords may be exercised by managers under the Court of Wards, managing agents and tahsildars of estates held under khām management, and other persons lawfully entrusted with the charge of land, and also by the agents employed by landlords or any such persons as aforesaid in the collection of rent, if expressly authorised by power-of-attorney to distress:

Provided that, if any such agent, purporting to act in the exercise of the said power, commits an act which, under the provisions of this chapter, is illegal, the person employing such agent shall be liable, as well as the agent, to be sued for compensation for any injury caused by such act.

50. Any person empowered to distress property under section 47 or section 49 may employ a servant or other person to make the distress; but in every such case he shall give to such servant or person a written authority for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

*The Oudh Rent Bill.**(Chapter VI.—Distress for Arrears of Rent.—Sections 51-54.)*

51. Standing crops and other ungathered produce of the earth, and crops or other products when reaped or gathered and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with powers of distress under this Act.

But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same agreement as the land in respect of which the arrear is due, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distress under this Act.

52. Before or at the time when any distress is made under this Act, the demand of arrear before or at time of distress, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

The demand and account shall, if practicable, be served personally on the defaulter, but if he cannot be found, they shall be affixed at his usual place of residence, and shall thereupon be deemed to be duly served upon him.

53. Unless the amount of the demand is immediately paid or tendered, the distrainer may distress property as aforesaid of value as nearly as may be equal to the amount of the arrear with the costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or if he be absent, affix it at his usual place of residence.

54. Standing crops and other ungathered produce of the earth may, notwithstanding the distress, be reaped or gathered by the tenant, and may be stored in such granaries or other places as are commonly used by him for the purpose.

If the tenant neglect to do so, the distrainer may cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

In either case the distrained property shall be placed in the charge of some proper person appointed by the distrainer for the purpose.

If the crops or products do not, from their nature, admit of being stored, the distress shall be made (if at all) at least twenty days before the time when the crops or products or any part thereof would ordinarily be fit for cutting or gathering.

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55. If a distrainer is opposed or apprehends resistance, and desires to obtain the assistance of a public officer, he may apply to the Court, and the Court may, if it think necessary, depute an officer to assist the distrainer in making the distress.

56. If at any time after property has been distrained as aforesaid, and before the sale thereof as hereinafter provided, the owner tender payment of the arrear demanded and of the costs of the distress, the distrainer shall receive the same and give a receipt therefor, and shall forthwith withdraw the distress.

57. Within five days from the time of storing any distrained crops or products, or, if such crops or products do not from their nature admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the proper officer authorized to sell property in satisfaction of decrees of the Court within whose jurisdiction the distrained property is situate.

58. The application shall be in writing; it shall contain a list or description of the property distrained, and it shall state the name of the defaulter, his place of residence, the amount due and the place in which the distrained property is deposited.

Together with the application, the distrainer shall deliver to the proper officer the sum payable for the service of a notice upon the defaulter as hereinafter provided.

59. Immediately on receipt of the application, the proper officer shall send a copy of it to the Court, and shall serve a notice in the form contained in Schedule C hereto annexed, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or within fifteen days from the receipt of the notice to institute a suit to contest the demand.

The officer shall at the same time send to the Court, for the purpose of being put up at the court-house, a proclamation fixing a day for the sale of the distrained property, not less than twenty days from the date of the proclamation; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain a description of the property, and shall specify the demand for which it is sold, and the place where the sale is to be held.

*The Oudh Rent Bill.**(Chapter VI.—Distress for Arrears of Rent.—Sections 60-64.)*

60. If a suit is instituted in pursuance of the
 before said notice, the Court
 shall send to the proper
 officer, or, if so requested
 by the owner of the distressed property, shall
 deliver to him, a certificate of the institution of
 the suit.

On such certificate being received by, or pre-
 sented to, the proper officer, he shall suspend
 the proceedings in the sale.

It shall not be lawful for the owner of the property
 to do any act which might prejudice the damage
 done to the property by distress for arrears of rent.

61. Any person who is guilty of having done
 any such act shall be liable to a fine not exceeding
 one hundred rupees, or to imprisonment for a term
 not exceeding three months, or to both such fine and
 imprisonment.

When notice has been received by the Court that
 the proceedings in the sale have been suspended.

62. The person for whom the property is
 distressed shall, on the receipt of the certificate, be
 bound to pay to the proper officer of the Court, and
 to the holder of the property, the amount of the
 arrears of rent.

63. The person who is guilty of having done
 any such act shall be liable to a fine not exceeding
 one hundred rupees, or to imprisonment for a term
 not exceeding three months, or to both such fine and
 imprisonment.

When notice has been received by the Court that
 the proceedings in the sale have been suspended,
 the Court shall, on the receipt of the certificate, be
 bound to pay to the proper officer of the Court, and
 to the holder of the property, the amount of the
 arrears of rent.

Upon such certificate being presented to the
 proper officer, the Court shall, on the receipt of the
 certificate, be bound to pay to the proper officer of
 the Court, and to the holder of the property, the
 amount of the arrears of rent.

63. On the expiration of the period fixed in
 the notice, the Court shall, on the receipt of the
 certificate, be bound to pay to the proper officer of
 the Court, and to the holder of the property, the
 amount of the arrears of rent.

64. The sale shall be held at the place where
 the distressed property is situated, or at the nearest
 ganj, bazar or other place of public resort, if the

*The Oudh Rent Bill.**(Chapter VI.—Distress for Arrears of Rent.—Sections 65-69.)*

proper officer thinks that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the officer holding the sale thinks advisable; and if the demand, with the costs of distress and sale, be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

65. If, on the property being put up for sale, the price which the officer holding the sale shall think fit to offer, or as soon thereafter as the officer holding the sale thinks fit; and in default of such payment the property shall be put up again and re-sold.

66. The price of every lot shall be paid in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks fit; and in default of such payment the property shall be put up again and re-sold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate stating the property purchased by him and the price paid therefor.

67. The officer holding the sale shall deduct from the proceeds one anna for every rupee and fraction of a rupee on account of the expenses attending the sale.

He shall then pay to the distrainer the expenses incurred by him on account of the distress and of the notice and proclamation of sale provided for in section 59, to such amount as, after deduction of the statement of expenses made by the distrainer, the officer thinks proper to allow.

The certificate shall be applied to the discharge of the debt for which the distress was made, and the surplus (if any) shall be delivered to the person whose property has been sold.

68. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are forbidden to purchase, either directly or indirectly, property sold by such officers.

69. The officer mentioned in section 57 shall bring to the notice of the Court any illegal act which shall come to his knowledge as having been committed by any person in making a distress under this Act.

If in any case, on proceeding to hold a sale under this Act, such officer finds that the owner has not received due notice of the distress and

*The Oudh Rent Bill.**(Chapter VI.—Distress for Arrears of Rent.—Sections 70-72.)*

intended sale, he shall postpone the sale and report the case to the Court, and the Court shall direct the issue of another notice and proclamation of sale under section 59, or make such other order as it thinks proper.

70. When such officer has gone to any place for the purpose of holding a sale, and no sale takes place, either for the reason stated in section 69, or because the distrainer's demand has been previously satisfied, the said charge on account of expenses attending the sale shall be leviable by the officer, and shall be calculated on the value of the distrained property, as estimated by him, unless the distrainer's demand has been satisfied before the day fixed for the sale and notice of such satisfaction has been given by him to the officer.

If the distrainer's demand be not satisfied on the day fixed for the sale, the charge shall be paid by the owner of the property, and may be recovered by sale of such portion thereof as may be necessary.

In every other case the charge shall be paid by the distrainer, and may be recovered under the warrant of the Court by attachment and sale of his property.

Provided that in no case shall an amount exceeding ten rupees be recoverable under this section.

71. When a suit has been instituted to contest a distrainer's demand, and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Court shall issue an order to the proper officer authorizing the sale of the property.

On the application of the distrainer (which shall be made within five days from the receipt of such order by such officer), such officer shall publish a second proclamation in the manner prescribed in section 59, fixing another day for the sale of the distrained property, not less than five nor more than ten days from the date of the proclamation; and, unless the amount adjudged to be due with cost of distress be paid immediately, shall proceed to sell the property in the manner hereinbefore provided.

72. In all suits instituted to contest a distrainer's demand the defendant must prove the arrear in the same manner as if he had himself brought a suit for the amount under the foregoing provisions of this Act.

If the demand or any part thereof is found to be due, the Court shall make a decree for the amount in favour of the distrainer.

Such amount may be recovered by sale of the distrained property as provided in section 71,

*The Oudh Rent Bill.**(Chapter VII. — Distress for Arrears of Rent.—Sections 73-77.)*

and if the distress has not been withdrawn, and if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter, or, if the distrained property have been released on security, by execution of the decree against the person and property of the defaulter, and, if his surety has been made a party to the suit, against the person and property of such surety.

73. If the distress is adjudged to be vexatious or groundless, the Court, after giving notice to the defaulter, may release the property, may award compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

74. If any person claiming any property seized by a landlord, who has his distress for arrears of rent, alleges to be due from any other person, the claimant may institute a suit against the landlord and such other person to try the right to the property, in the same manner and under the same rules as to a time of instituting the suit as are for the contesting perpetration of an act by a person whose property has been distrained for an arrear of rent alleged to be due from him; and may institute a suit to contest the demand.

75. When any such suit is instituted, the property may be released upon payment of a sum of money to be valued and given to the satisfaction of the Court.

If the claim is dismissed, the Court shall make an order in favour of the landlord, for the sale of the property, or the recovery of its value, or the case may be.

If the claim is upheld, the Court shall order compensation for the release of the distrained property, and may award such compensation as it thinks fit, not exceeding twice the value of the property distrained.

76. No claim to any produce of land liable to landlord's prior distress under this Act, and claim to distrain be found at the time of the produce in possession of a defaulting tenant, whether such claim be in respect of a previous sale, mortgage or otherwise, shall bar the landlord's prior claim, nor shall any attachment in execution of a decree of any Civil Court prevail against such claim.

77. Whenever property has been distrained for an arrear of rent, and a stranger claiming to be landlord and to have right of distress to be made a party

suit has been instituted to contest the demand, and the right to distrain for such

*The Oudh Rent Bill.**(Chapter VI.—Distress for Arrears of Rent.—Sections 78-80.)*

arrear is claimed by or on behalf of any person other than the distrainer on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made by a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the commencement of the suit shall be inquired into, and the suit shall be decided according to the result of such inquiry :

Provided that the decision of the Court shall not affect the right of any person having a title to the rent of land to establish such title in a Court of competent jurisdiction, by suit instituted within one year from the date of the decision.

78. Any person whose property has been distrained for the recovery of a demand not justly due or of a demand due or alleged to be due from some other person, and who is prevented by any sufficient cause from bringing a suit to contest the demand or try the right to the property, as the case may be, within the period allowed by sections 59 and 71, and whose property is in consequence brought to sale, may institute a suit to recover compensation for any injury which he has sustained from the distress or sale.

79. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrains or sells any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act,

or if any distrained property is lost, damaged or destroyed, by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof,

or if the distress is not immediately withdrawn when any provision of this Act requires such withdrawal,

the owner of the property may institute a suit to recover compensation for any injury which he has thereby sustained.

80. If any person not empowered by this Act to distrain or sell, nor duly authorized for that purpose by a person so empowered, purports to distrain or sell any property under this Act, the owner of such property may institute a suit to recover compensation from the person so distraining or selling for any injury which the plaintiff has sustained from the distress or sale.

Such suit shall not affect the defendant's liability to be prosecuted under any law for the time being in force.

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Sections 81-83.)*

81. If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any detained property, the Court, upon complaint being made within ten days from the date of such resistance or removal, shall cause the person accused to be arrested and brought before the Court with all convenient speed, and the Court shall proceed forthwith to try the case.

If the case cannot be at once heard and determined, the Court may, if it think fit, require the party arrested to give security for his person, whenever the same may be required, and, in default of such security, may commit him to the civil jail until the case is tried.

82. If such resistance or removal of property be proved, the Court may order the offender to pay a fine not exceeding one hundred rupees, together with all costs and expenses incurred in the case or in making the distress, and, in default of payment, may order him to be imprisoned in the civil jail until payment is made: Provided that no such imprisonment shall continue for more than six months.

CHAPTER VII

JURISDICTION OF THE COURTS.

Suits cognate hereto

83. No Courts other than Courts of Revenue shall take cognizance of the following descriptions of suits, and such suits shall be heard and determined in the said Courts of Revenue in the manner provided in this Act and not otherwise:—

A.—Suits by a Landlord.

(1).—For the delivery by a tenant of the crop or a portion of a crop under section 10;

(2).—For the return of land;

(3).—For the enhancement of the rent of a tenant;

(4).—For the ejectment of a tenant [];

(5).—Suits by landlords against patwāris or agents employed by landlords in the management of land or the collection of revenue or rent, or against the surties of such patwāris or agents for money received or accounts kept by such patwāris or agents in the course of such employment, or for papers in their possession, or for the rendering and settlement of accounts.

[having a right of occupancy]

[or for cancelling any lease on account of the non-payment of arrears of rent or on account of a breach of the conditions of such lease]

B.—Suits by an Under-Proprietor or a Tenant.

(6).—For establishing a right of occupancy;

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Section 53.)*

(7.)—For the delivery by a landlord of a *patta*;

(8.)—For contesting a notice of ejectment;

(9.)—For compensation—

on account of illegal enforcement of payment of rent, or of any sum in excess of rent, due,
or on account of the refusal of receipts or acknowledgments for rent paid or tendered,

or on account of illegal ejectment,

or on account of the value of standing crops under section 16,

or on account of loss arising for the making of improvements under section 26;

(10.)—For the recovery of the occupancy of any land of which an under-proprietor or tenant has been dispossessed or from which he has been illegally ejected by the landlord;

(11.)—For contesting the exercise of the power of distraint conferred on landlords and others by this Act, or any acts purporting to be done in exercise of the said power, or for compensation for illegal distraint;

(12.)—For abatement for rent in accordance with the provisions of section 19;

(13.)—For the recovery of compensation for improvements in accordance with the provisions of section 22

C.—Suits regarding the Division or Appraisement of Produce.

(14.)—Suits under section 51, regarding the division, estimate or appraisement of the produce of land.

D.—Suits by and against Lambardars, Co-sharers and Muafidars

(15.)—Suits by a sharer against a lambardār or co-sharer for share of the profits of an estate or any part thereof, or for the rendering and settlement of accounts in respect of such profits;

(16.)—Suits by a lambardār or pattidār who is entitled to collect the rents of the patti, for arrears of revenue or rent payable through him by the co-sharers whom he represents, and by a lambardār for village-expenses and other dues for which the co-sharers may be responsible to him, or against a joint lambardār for compensation for revenue or rent paid by such lambardār on account of such joint lambardār;

(17.)—Suits by co-sharers against lambardārs, or by proprietors or lessees against muafidārs or assignees of revenue, for compensation on account of exaction in excess of revenue or rent, or on account of the refusal of receipts or acknowledgments for revenue or rent paid or tendered;

(18.)—Suits by muafidārs or assignees of revenue for arrears of revenue.

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Sections 84-91.)**Grades of Courts.*

84. For the purposes of this Act, the Courts of Revenue shall consist of six grades of Courts, namely—

- (1.)—The Court of the Assistant Collector of the second class;
- (2.)—The Court of the Assistant Collector of the first class;
- (3.)—The Court of the Deputy Collector;
- (4.)—The Court of the Collector;
- (5.)—The Court of the Commissioner;
- (6.)—The Court of the Judicial Commissioner.

85. The Chief Commissioner of Oudh shall have power to declare to which of the first three grades any Assistant Commissioner shall belong, and to invest any Tahsildar with the powers of any of the same grades.

86. The Deputy Commissioner shall exercise the powers of a Collector under this Act.

87. The Chief Commissioner of Oudh may invest any officer employed in making or revising settlements of revenue with all or any of the powers of a Collector, or Deputy Collector, or Assistant Collector, under this Act.

88. The Court of the Assistant Collector of the second class shall have power to try and determine suits of the descriptions mentioned in clauses (1), (2), (7), (12), (15), (16), (17) and (18) of section 83, of which the subject-matter does not exceed one hundred rupees in value or amount.

89. The Court of the Assistant Collector of the first class shall have power to try and determine suits of the descriptions referred to in the last preceding section, of which the subject-matter does not exceed five hundred rupees in value or amount.

90. The Court of the Deputy Collector shall have power to try and determine suits of every description of which the subject-matter does not exceed five thousand rupees in value or amount.

91. The Court of the Collector shall have power to try and determine suits of every description and of any amount, and to hear appeals from the decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure as applied by this Act) from the

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Sections 92-95.)*

orders of the Assistant Collectors, and, in suits under clauses (2), (5), (9), (11), (15), (16), (17) and (18) of section 83, from such decisions and orders of the Deputy Collectors.

Whenever the state of the public business requires it, the Chief Commissioner may invest any Deputy Collector with the powers of a Collector for the trial and determination of suits and appeals under this Act, other than appeals from the decisions of such Deputy Collector, *and with the powers of a Deputy Commissioner to hear applications under sections 24 and 43*, and may invest any Collector with all or any of the powers of a Commissioner under this Act.

92. The Court of the Commissioner shall have power to hear and determine appeals from decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) XIV of 1882. from the orders of the Collectors and Deputy Collectors, except as otherwise provided in sections 91 and 95 [].

[and 102]

93. The Court of the Judicial Commissioner shall have power to hear and determine appeals from the decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) XIV of 1882. from the orders of the Commissioners, and also *second* appeals, as provided in the said Code, from the decisions passed in *first* appeal by the Collectors and by the Commissioners.

Appeals.

94. The memorandum of appeal, prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, XIV of 1882. shall be presented to the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause, to the satisfaction of such Court, for not having presented the memorandum within such period; that is to say, thirty days if the appeal lie to the Collector, six weeks if the appeal lie to the Commissioner, and ninety days if the appeal lie to the Judicial Commissioner.

The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made.

Second appeals shall be presented in the Court of the Judicial Commissioner within the period hereinbefore fixed for the presentation of *first* appeals.

95. In suits under clauses (2), (5), (9), (11), (15), (16), (17) and (18) of section 83, and in appeals from decisions in such suits tried and decided by a Commissioner or Col-
No appeals, except in certain cases, from Collector's decree for money below one hundred rupees.

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Sections 96-99.)*

lector, if the amount sued for does not exceed one hundred rupees, the judgment shall be final, except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a tenant, or any question relating to a title to land or to some interest in land, as between parties having conflicting claims thereto, has been determined by the judgment.

In such case the judgment shall be open to appeal in the manner provided in this Act.

Distribution of Business.

96. The Deputy Commissioner may direct the Deputy Commissioner business in the Courts subordinate to him, whether or not they held their sittings in the same place, to be distributed among such Courts in such way as he shall think fit.

Transfer of Suits and Appeals.

97. The Commissioner or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself, or refer it for trial to any other such Court competent to try the same.

The Commissioner may also withdraw any appeal instituted in the Court of any Collector subordinate to him, and try the appeal himself, or refer it for trial to the Court of any other Collector in his Division.

98. The Judicial Commissioner may order that any suit or appeal which shall be instituted in or presented to any Court subordinate to him shall be transferred to any other such Court competent to try or hear the subject-matter of the same.

Miscellaneous.

99. In the performance of their duties under this Act, the Collectors shall be subject to the direction and control of the Commissioners and of the Chief Commissioner; and the Deputy Collectors and Assistant Collectors shall be subject to the direction and control of the Deputy Commissioners to whom they are respectively subordinate:

Provided that nothing in this section shall empower the Chief Commissioner or any Commissioner or Deputy Commissioner to interfere in any way not authorized by this Act with any decision or order in a suit.

*The Oudh Rent Bill.**(Chapter VIII.—Limitation of Suits.—Sections 100-106.)*

100. All suits which, under the provisions of this Act, may be brought by or against landlords, may be brought by or against managing agents or talsildars of khām estates, whether such estates are the property of Government or not.

101. No sharer in a joint estate, under-proprietary or other tenure, in which a division of land has not been made among the sharers, shall exercise any of the powers conferred by this Act in regard to the recovery of arrears of rent, enhancement of rent, ejectment of tenants, or distress, otherwise than through a manager authorized to collect the rents on behalf of all the sharers.

In pattidāri estates or tenures such powers shall be exercised only through a lambardār, or through the pattidār who is entitled to collect the rents of the putti.

102. Any person in possession of land occupied without consent of the landlord shall be liable for the rent of such land at the rate payable in the previous year, or, if no rent was payable in the previous year, at such rate as the Court may determine to be fair and equitable, and he shall not in respect of such land have any of the statutory privileges conferred by this Act.

103. The Courts may sit for the hearing and determining suits and appeals, and for disposing of other business under this Act, in any place within the local limits of their respective jurisdictions:

Provided that every hearing and decision shall be in open Court, and that the parties to the suit, or their authorized agents, shall have had due notice to attend at such place.

CHAPTER VIII.

LIMITATION OF SUITS.

104. Except as herein otherwise provided, and subject to the provisions as to legal disability contained in any law for the limitation of suits for the time being in force in Oudh, all suits under this Act shall be instituted within one year from the date of the accruing of the cause of action.

105. Suits for the delivery of pottas or the counterparts of pottas may be instituted at any time during the tenancy.

106. Suits for the recovery of arrears of rent of revenue or of a share of profits shall, except in the case mentioned in

*The Oudh Rent Bill.**(Chapter IX.—Procedure.—Sections 107-110.)*

section 16, be instituted within three years from the date on which the arrear or share of profit claimed shall have become due.

107. Suits for the recovery of money in the hands of an agent, or for the settlement of accounts or delivery of papers by an agent, may be brought at any time during the continuance of the agency or within one year after its determination, or, in the case of claims legally cognizable at the date of the passing of this Act, within one year after such date.

108. Suits regarding distress under section 74, 75, 79 or 80, and suits regarding the division, estimate or appraisal of the produce of land, shall be commenced within three months from the date of the accruing of the cause of action.

CHAPTER IX.

PROCEDURE.

IV of 1882. **109.** The provisions of the Code of Civil Procedure as in force in Oudh shall, so far as they are not inconsistent with the provisions herein contained, apply to all suits, appeals and proceedings under this Act.

110. In addition to the particulars required by section 50 of the said Code to be specified in the plaint, the plaint shall contain the following particulars:—

1st.—The name of the village or estate, and of the parganā in which the land to which the suit relates is situate;

2nd.—If the suit be for recovery of an arrear of rent, or for the enhancement or abatement of rent, or for the ejectment of a tenant, or for contesting a notice of enhancement of rent, or for contesting a notice for the ejectment of a tenant or for the recovery of the occupancy or possession of any land, the plaint shall specify the extent, situation and designation of the land to which the suit relates and, where fields have been marked in a Government survey, the number (if it be possible to give it) of each field;

3rd.—If the suit be for recovery of an arrear of rent or revenue, the plaint shall specify the yearly rent or revenue of the land, the amount (if any) received on account of the year or years for which the claim is made, the amount in arrear and the time in respect of which it is alleged to be due;

4th.—If the suit be for the delivery of a *patta* or the counterpart of a *patta*, the plaint shall specify all the particulars mentioned in section 7.

*The Oudh Rent Bill.**(Chapter IX.—Procedure.—Sections 111-117.)*

111. When in any suit between a landlord

and an under-proprietor or tenant the right to receive the rent of the land is claimed by a third person, on the ground that he, or a person through whom he claims, has actually and in good faith received and enjoyed such rent up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him or the person through whom he claims shall be inquired into, and the suit shall be decided according to the result of such inquiry :

Provided always that the decision of the Court shall not affect the right of any party having a legal right to the rent of such land to establish his title thereto in a Court of competent jurisdiction.

112. In all suits under clauses (1), (2), (7), (10) and (11) of section 83 of this Act, the summons to the defendant shall be for the final disposal of the suit.

113. In a suit to recover an arrear of rent, no set-off shall be allowed against the claim, except such amount as may be due to the defendant on an unexecuted decree under this Act against the plaintiff.

114. In any suit under this Act involving a claim to money, the defendant may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the plaintiff's claim, together with the costs incurred by the plaintiff up to the time of such deposit.

Notice of the deposit shall be given to the plaintiff, and the amount deposited shall be paid to him on his application.

No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

115. In any case in which the defendant deposits less than the amount claimed by the plaintiff, nothing in section 114 shall bar the plaintiff from proceeding in the suit for the recovery of the balance.

[**116.** If a tenant not having a right of occupancy institute a suit against a landlord for the delivery of a lease, or a landlord institute a suit against a tenant not having a right of occupancy for the delivery of the counterpart of a lease, and the parties do not agree in respect of the particulars which such lease or counterpart is to contain, the Court shall dismiss the suit, unless evidence in writing is produced which shall satisfy the Court that an agreement has been entered into between the parties in accordance with which such lease or counterpart ought to be delivered.]

117. The local inquiry described in section 392 of the Code of Civil

Procedure may also, if he think fit, be made by the Collector in person or other officer presiding in the Court, and the provisions of the said Code regarding local inquiries shall apply to such inquiries made by such Collector or other officer.

In such cases the Collector or other officer as aforesaid, after completing the inquiry, shall

*The Oudh Rent Bill.**(Chapter IX.—Procedure.—Sections 118-123.)*

record on the proceedings such observations as he thinks fit, and the observations so recorded shall be received as evidence in the suit.

As to Decrees.

118. No process of execution shall be issued Time within which on a decree under this Act execution may be had. *when the application for the issue of such process is made after the lapse of three years from the date of such decree, unless the decree be for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the law in force as to the period allowed for the execution of decrees of the Civil Courts.*

119. When a decree for money is made in any Immediate execution suit under this Act, the of decree. Court may, on the oral application of the party in whose favour the decree is passed, direct immediate execution thereof in the manner described in section 254 of the *Code of Civil Procedure*.

XIV of 1882.

120. When a decree in favour of the plaintiff Decree for enhance- is made in a suit for an en- ment to state date from hancement of rent, the which it is to take ef- Court shall declare the date fect. from which such enhance- ment shall take effect.

121. If the decree be for the delivery of Enforcement of de- papers or accounts, it may cee for delivery of be enforced by the impri- papers or accounts. sonment in the civil jail of the party against whom it is made or by the attachment of his property, or by both imprison- ment and attachment.

The imprisonment and attachment may be continued until he complies with the terms of the decree :

Provided that no person shall be imprisoned under this section for a longer period than six months.

122. A decree for the delivery of a *patta* or of Decrees for lease or the counterpart of a *patta* counterpart to specify shall specify all the parti- particulars. culars mentioned in section 7, and such other particulars *in accordance with the provisions of this Act* as to the Court seem fit.

123. If the decree be for the delivery of a Court after decree *patta* or the counterpart of a *patta*, and the party or- may grant lease or a *patta*, and the party or- counterpart, in case of dered to deliver such *patta* defendant's refusal. or counterpart neglects or refuses so to do, the Court may grant a *patta* or counterpart in conformity with the terms of the decree, and such *patta* or counterpart shall have the same effect as if delivered by the party against whom the decree was passed.

*The Oudh Rent Bill.**(Chapter X.—General.—Sections 124-129.)*

124. If the decree be for money, no process in execution shall issue against the immovable property of the judgment-debtor, other than attachment of such property, unless satisfaction of the decree cannot be obtained against his moveable property.

125. If the decree be for an arrear of rent due in respect of an under-proprietary right, the interest of the judgment-debtor in such right may, subject to the provisions of this Act, be sold in execution of the decree.

[Provided that no such sale shall be allowed unless it appear to the Deputy Commissioner that satisfaction of the decree cannot be made in the manner referred to in sections 243 and 244 of the Code of Civil Procedure.

If it appear to the Court that such satisfaction can be made, the Court may exercise the powers given to it by the said section 243, although no application has been made by the judgment-debtor.

The Deputy Commissioner may be appointed manager of the property under the same section. When he has been so appointed, he may exercise, for the satisfaction of the decree against the judgment-debtor, all the powers which, under any law in force in Oudh, he might have exercised for the recovery of an arrear of revenue due by such judgment-debtor to the Government.]

126. No beneficial lease or other incumbrance hereafter created on his estate by any under-proprietor shall be valid, in the event of the sale of his rights and interests in execution of a decree for arrears of rent, unless such incumbrance has been registered, under any rule or law for the time being in force in Oudh, within four months after the creation thereof, and not less than thirty days before the date of attachment of such rights and interests.

127. When an under-proprietor creates any such incumbrance and fails to pay to the proprietor all or any part of the rent subsequently accruing in respect of the land subject to the incumbrance, the incumbrancer shall be liable to pay to the proprietor the whole or such part as aforesaid of the said rent, unless the proprietor has agreed in writing to waive any claim which he might otherwise have made on the incumbrancer under this section.

128. When land is sold in execution of a decree under this Act, and the land or any lot thereof has been knocked down to a stranger, any co-sharer, other than the judgment-debtor, may, before sunset on the day of sale, claim to take the land or lot, as the case may be, at the sum at which it was so knocked down.

If the land be an under-proprietary tenure, a like claim may also be made by the proprietor.

Any claim made under this section shall be allowed: Provided that, if a claim to the same land or lot be made by a proprietor as well as by a co-sharer, the claim of the co-sharer shall be preferred: Provided also that no claim shall be allowed unless the claimant fulfil all the conditions of the sale binding on a purchaser.

CHAPTER X.

GENERAL.

129. *The Local Government, on being satisfied that any estate is suffering from grave mismanagement, may exercise the powers referred to in the Local Government, to an extent which has,*

*The Oudh Rent Bill.**(Chapter X.—General.—Sections 130-132.—Schedule A.)*

since the first of January, 1886, materially deteriorated the condition of the tenancy, or diminished the area of cultivation, may, with the previous sanction of the Governor General in Council, appoint an officer for the revision of the rents of the estate and their authoritative settlement for a period not exceeding ten years.

11 of 1877. 130. Notwithstanding anything contained in the Indian Registration Act, 1877, paltas granted for any term not exceeding seven years by landlords to tenants to whom sections 35 and 35(A) of this Act apply shall be deemed good and valid without the same being registered.

131. The provisions of sections 4, 35, 35(A), 36, 36(A), 36(B), 36(C), 36(D), 36(E), 36(F), 36(G), 36(H), and 38(A) shall not extend to the areas specified in Schedule D attached to this Act, but the Local Government may hereafter, from time to time, by notification published in the official Gazette, extend the provisions, or any of them, to any area hereby excluded.

132. The Local Government may, from time to time, make rules consistent with this Act for the guidance of all persons in matters connected with the enforcement of this Act.

[Act XII, 1891, section 211.]

All such rules shall be published in the official Gazette, and shall thereon have the force of law.

SCHEDULE A.*

(See section 15.)

I, A. B., of _____, &c., solemnly declare that I did personally (or by my agent C. D., on the _____ day of _____) tender payment to E. F. at _____ (the place where the rent of the lands at _____ held (or cultivated) by me under or from or jointly with) the said E. F. (or usually payable) of the sum of rupees _____ as and for the whole amount due from me in respect of the rent of the said lands from the month of _____ to the month of _____ both inclusive. I further declare that the said E. F. refused to accept the said sum so tendered (or to give me a receipt in full, forthwith, for the sum so tendered). And I declare that, to the best of my belief, the sum of rupees _____ so tendered, and which I now desire to pay into Court, is the full amount which I owe the said E. F. on account of the rent of the said lands from the month of _____ to the month of _____ both inclusive, and that I owe the said E. F. no further sum on account of the rent of the said lands.

I, _____, the person named in the above declaration, do declare that what is stated therein is true to the best of my information and belief.

If this declaration is made by an agent, it must be altered accordingly.

*The Oudh Rent Bill.**(Schedule B.—Schedule C.—Schedule D.)*

SCHEDULE B.*

(See section 15.)

Court of the of . Dated the
 day of 18 .
 To *E.F.*, of , &c.

With reference to the within declaration, you are hereby informed that the sum of rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or your duly authorized agent on application. And take notice that if you have any further claim or demand whatsoever to make against the said *A. B.* in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

SCHEDULE C.

(See section 59.)

Office of , officer appointed to sell distrained property.

A. B. — Distrainer.

Whereas the said *A. B.* has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you hereby are required either to pay the said sum to the said *A. B.* or to institute a suit before the Court to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 188 .

SCHEDULE D.

(See section 131.)

* This is to be by endorsement on a copy of the declaration under Schedule A made by the person paying the money into Court.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill, which has been prepared by the Government of the North-Western Provinces and Oudh, is to secure to tenants in Oudh some protection against arbitrary eviction from their holdings and enhancement of their rents, and to place on a clear footing their right to make improvements on their holdings and to receive compensation for improvements so made. Under the law as it stands they are absolutely unprotected against enhancement and eviction, provided that the landlord observes certain easy formalities in raising rents or in issuing his notices of ejectment. Every field in a tenant's holding can be shifted on the close of each agricultural year at the will of his landlord, and there is no limit to the rise of rents.

The Census Statistics show that the pressure of the population on the land in Oudh is very great, being 170 to the square mile, and the large number of notices of ejectment annually issued and their steady increase from 23,600 in 1876 to 90,200 in 1882 afford reason for believing that they are used as instruments for the undue enhancement of rent. Enquiry has shown that this belief is not unfounded, and that the effect of the existing law on a population dependent mainly on agriculture for its subsistence must lead at no distant date to the deterioration of agricultural industry and the impoverishment and degradation of the bulk of the people.

It is not proposed to introduce a system of heritable occupancy-right acquired by prescription, such as prevails in the North-Western Provinces, but to accept contract as the basis on which transactions between landlord and tenant are to be regulated. The tenant, however, who has no other means of subsistence open to him, is no match for the landlord in a thickly populated agricultural province, and with a view to place the parties on more equal terms the Bill imposes the following restrictions on free contract between them.

Sitting tenants may hold the land they at present occupy at the rent now paid from the date of the last change in their rent or in the area of the holdings.

The enhancement of rent permissible at the expiry of each statutory period is to be limited to $6\frac{1}{2}$ per cent, or one anna in the rupee, on the current rental; the sitting tenant to have the equity of renewal at rent within that limit.

At the end of that period it is proposed to allow the landlord to enhance the rent of the sitting tenant to such sum as he and the tenant may agree upon within a limit of one anna in the rupee, or $6\frac{1}{2}$ per cent, on the rent previously paid.

At any time after the expiration of the statutory period a landlord who has not made terms with the sitting tenant may proceed either by notice of enhancement or by notice of ejectment at his discretion. If he proceeds by notice of enhancement the enhancement must be within the limit above given. If the tenant accepts, a new period begins. If the tenant refuses the proposed enhancement, the holding will become vacant, but no higher rent can be recovered from the next tenant than $6\frac{1}{2}$ per cent, above the old rent on the same holding. If the landlord proceeds by ejectment, leaving the tenant no option of re-entry, compensation for disturbance will be given up to one year's rent at the rate last paid, and the limitation of $6\frac{1}{2}$ per cent, will apply to the rent recoverable from the next tenant. In both cases tenants will be entitled to receive before dispossession any compensation due to them for improvements. The right of renewal is to be personal to the tenant in occupancy. On the death of a tenant in occupancy his heir will be entitled to hold on, on the same terms, to the expiration of the statutory period enjoyable by his predecessor, but must then surrender the holding to the landlord, vacate the holding on payment of the compensation for improvements found to be due to him.

The provisions are experimental, and power is therefore given to the Local Government from time to time, within periods of not less than seven years in any district or part of a district, to vary the limit of enhancement. Although there has been a considerable rise of prices in the past fifteen years, the rise may not continue at the same rate, and in that case the limit of $6\frac{1}{2}$ per cent, might be unfair to the tenant. In other cases the limitation might conceivably operate to the prejudice of the landlord.

The sanction in the tahsildar's sanad—that he will promote the agricultural prosperity of his estate—is so vaguely worded as to leave the Government and the tahsildar alike uncertain as to the grounds on which Government should interfere between him and his tenantry. To put the matter beyond doubt power is given to Government to step in when it is satisfied that an estate is suffering from grave mis-management, which has since the present year materially deteriorated the condition of the tenantry or diminished the area of the cultivation. The exercise of this power is subject to the previous sanction of the Governor General in Council, and the consequences of it are not the forfeiture of the estate, but an authoritative settlement of rents for ten years.

A similar power of settling rents was conferred in the Bengal Tenancy Act of 1885, the Local Government being authorized to interfere in the interests of public order or of the local welfare.

The detailed reasons for the alterations in the present Act necessary to carry out these proposals will be found in the annexed letter from the Local Government.

The 29th January, 1886.

J. W. QUINTON.

No. ¹⁷⁷₂₁₀₄₁ R. or 1886.

From

J. WOODBURN, Esq., SECRETARY to GOVT, N.-W. P. AND OUDH,

IN THE OUDH REVENUE DEPARTMENT,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,

REVENUE AND AGRICULTURAL DEPARTMENT.

Dated Allahabad, the 15th January, 1886.

In compliance with the request conveyed in your letter No. ⁸²²₁₁₁₅ (Revenue), dated the 9th ultimo, I am directed to submit a draft Bill to amend the Oudh Rent Law.

2. The general principles on which the Lieutenant-Governor and Chief Commissioner proposes to amend the Rent Law in Oudh are fully detailed and explained in the letters of this Government, No. 3931 of the 21st December, 1883, and No. 723 of the 12th May, 1884. In this letter submitting the draft Bill it seems sufficient to explain the reasons which have led to the various minor alterations of the present Rent Act.

3. The Bill takes the form of a revised edition of the existing Act. It is very probable that in phraseology and arrangement Act XIX of 1868 might be greatly improved; but it is only in Chapters IV and V that any material change is needed to give effect to the several proposals which have been made by the Lieutenant-Governor. And since the Act is well understood by and familiar to the Rent Courts and the people, it appears advisable to make no more alterations of it than are necessary to a clear and correct statement of the principles which are hereafter to govern the relations of landlord and tenant. But the opportunity has been taken to remove any difficulties that have been found by the Courts in interpreting certain other parts of the existing law. Additions to existing sections of the Act and all new sections are printed in italics; and any portions of existing sections which it is proposed to omit have been printed marginally in brackets.

4. I am now to proceed to a specific statement of the alterations made in the Act.

5. Section 2 repeals Act XIX of 1868, but maintains such notifications and rules made under it as are consistent with the new Act.

6. In section 3 a clause has been added to the definition of "rent," to make it quite clear that the word covers the rent of an under-proprietor who may not be personally in the use or occupation of the land in his tenure. A clause has been added to the definition of "tenant," to show what portions of the Act are applicable to a thikadār. A collector of rents should acquire none of the statutory privileges of a cultivating tenant, but is a tenant of the lessor for many purposes. A definition of "prescribed" has been inserted, which is taken from the Bengal Tenancy Act, 1885.

7. Section 4 is substituted for the corresponding section of the present Act. It is necessary to provide that no contract before or after the passing of the Act shall deprive a tenant of that protection against enhancement and ejectment which it is the special object of the new law to give. The Lieutenant-Governor has decided, after careful consideration of the point, not to recommend that the new law shall be so framed as to prohibit the execution of any special agreement which shall give a tenant a longer occupancy than the statutory period of seven years; but it is essential that agreements for any shorter term shall be barred, and I am to ask that this point may receive particular attention when the draft is examined. The proposal that the occupation of a holding may be settled between landlord and tenant for a longer period than seven years by agreement, but that no contract shall defeat the statutory limit of enhancement. He is unwilling to interfere more than is absolutely necessary with any existing contracts; and where the terms of any pottas at present in force exclude the tenant from making improvements or claiming compensation for such as he may have already made, he would set the contract aside. So far as the Lieutenant-Governor's information goes, the number of such contracts is not great, while in many such cases it may be presumed that the improvements will have been made upon special terms and conditions.

8. As regards clearing leases the Lieutenant-Governor is of opinion that they must be left to be arranged by landlord and tenant without interference by the State. The conditions under which they are taken vary considerably in different parts of the country, and are in fact effectively controlled by local circumstances and local custom. A proviso has accordingly been added to this section, the terms of which have been taken from the first proviso to section 178 of the Bengal Tenancy Act.

9. Section 5 (A), empowering a landlord to confer occupancy-rights, has been inserted in accordance with the wish of His Excellency the Governor General in Council, as conveyed in paragraph 15 of your letter No. 252R., dated 12th April, 1884.

10. In section 7 of the present Act the word "lease" is used for the written memorandum of the terms of a tenant's holding. It is scarcely applicable to the record of the terms of a holding conferred by Statute, and the Lieutenant-Governor would prefer to use the word "patta." It is again inconsistent with a statutory tenure that the record of it should contain any conditions except those imposed by the Statute, and the clause of the present section 7, authorising the entry in the patta of any special conditions of the lease, should be omitted.

11. Section 11 of the present Act authorises the cancellation of a lease by decree. It seems desirable that the whole of the provisions in regard to the determination of tenancies should be placed together, and this section, with the material alterations which will be subsequently explained, has been transferred to the chapter on ejectments as 43(A).

12. Section 20 of the Rent Act contains the provincial rule regarding the remission of rent, where it is proved to the Rent Court that from unforeseen calamity the tenant is unable to pay the entire demand. A proviso is attached to the section, which prevents a tenant with a five years' lease from claiming the benefits of this section. If this proviso were retained under the amended Act, which is to give all tenants a statutory occupancy for seven years, the effect would be to nullify the section altogether. The question is, therefore, whether the entire section should be struck out, whereby the Courts would lose their power of making allowances in rent-decrees for inevitable calamities, or whether the section shall stand without its proviso, whereby remissions of rent would cease to be in any case dependent on remissions of revenue. The latter course appears to the Lieutenant-Governor to be on the whole likely to be better for the interests of both landlord and tenant. If, as the Lieutenant-Governor believes, it is not expedient to withdraw from the Courts all power to take account of serious calamities in decreeing arrears of rent, in that case to provide that this power shall only be used when revenue has been remitted is to shackle it with an awkward and hardly logical condition. The corresponding provisions of the rent law in the North-Western Provinces are contained in section 23 of Act XII of 1881 and the rules which have been prepared under it. When the crops have been injured by hail or drought in a village of the North-Western Provinces, the Collector has to apply for a remission of revenue before he can move in the matter of rents; and when that is obtained he enforces a remission of rents, equivalent to double the remission of revenue, by a process which is not always very well adjusted or duly proportioned. There is by law no similar rule in Oudh. Neither in the Revenue nor in the Rent Acts is any authority given to the Deputy Commissioner to carry on, distribute and enforce among the rents of the tenantry the remission which has been made in the landlord's revenue. It is true that under circular orders, issued administratively (of which an extract is given in the footnote), Deputy Commissioners have insisted on remissions of rent as a consequence of remissions of revenue; and the Lieutenant-Governor is not prepared at once to cancel those instructions. Nevertheless, when it comes to framing legal provisions, he would prefer to leave, at any rate experimentally, the adjustment of rent abatements between landlord and tenant as much as possible to the parties concerned, subject only to a Judge's discretion in extraordinary cases. The fact of the revenue remission is perfectly well known, and any tenant who is pressed to pay upon crops that have been seriously damaged has only to demur to the demand and let his claim to relaxation of the rent be considered by the Rent Court. So long as a tenant was liable to summary and arbitrary ejectment, undue pressure for the payment of rent could no doubt be made; but now that all tenants will be protected in the occupation of their holdings, the Lieutenant-Governor considers that with an appeal to the Rent Court, such as is given by section 20, they may be left to make their own arrangements with their landlords on such occasions as those contemplated by the section.

13. The proviso in section 20 is to some extent based on a distrust of the Courts, since they might exercise the power without sufficient cause, and hamper the landlord by remissions of rent for which he has received no compensating remission of revenue. The landlord, however, has always the remedy of appeal from a decree which he considers unfair, and if the case can be supposed possible of calamity so considerable as to justify large remissions of rent by the Court, although no previous remission of revenue had been given, no Deputy Commissioner would refuse to recommend a corresponding remission of revenue. There is again the risk that the Courts might force remissions of revenue by giving remissions of rent; but it must be assumed that the Courts will proceed with due care and upon sufficient evidence in remitting rents, while in Oudh they are likely always to keep in view the effect of their decrees upon the revenue. Moreover, a landlord is certain to contest any unfair reduction of his rent-demand; for a remission of revenue is never sufficient to compensate him, and his appeal is to the Commissioner or Deputy Commissioner, who is directly concerned with the collection of revenue. The Lieutenant-Governor recommends,

Any landlord who receives a remission of Government revenue will be bound, in proportion to the extent of the remission, not to take, either through himself or through a lessee, and to restore if he has so taken, rent for the crop on account of which the remission is granted.—(From Circular Orders of 7th January, 1873.)

therefore, that the section be maintained with the omission of the proviso. The draft proposes to insert "materially" before "diminished", to indicate to the Courts that remission is not to be given for any but considerable loss.

14. Sections 35 and 36 of the present Act will be entirely superfluous, and the reference to them in section 20 may be excised.

15. In section 21 (relinquishment of the holding) the last clause of the first sentence may be omitted. The Lieutenant-Governor wishes to make a distinction between relinquishment and abandonment. If tenants are to have considerable notice of years, it is right that the landlord should have fair notice of relinquishment of holding, that he may make suitable arrangements for a new tenant. The date for notice of relinquishment has not only been antedated to the 1st of March, but at this time let to another tenant and hardly have been given. It has been prescribed that the notice shall be in writing.

16. A section has been drafted in regard to abandonment [21 (B)], adopted from section 87 of the Bengal Tenancy Act.

17. In the section on compensation for tenants' improvements, considerable changes have been made. Section 22 of the present Act directs that the tenant shall be entitled to compensation for improvements whenever his rent is enhanced. This provision has, so far as the Lieutenant-Governor can ascertain, remained unaltered. Under a system by which the adjustment of rent between landlord and tenant was left entirely to private contract, any enhancement of rent, so long as the tenant chose to stay, probably took into consideration the tenant's expenditure on the improvement of his holding. For the future at least no such provision can exist. The enhancement of the rate of a statutory period of tenancy or a statutory culture period, and whether or not the tenant has in the course of his existing period of tenancy effected an improvement which has added to its value. The clause in section 22, providing for compensation on enhancement, may therefore be omitted.

18. The principle on which compensation is calculated under the present Act is solely that of the outlay of the tenant. The last sentence of the section here right to compensation for improvements which were made more than thirty years before the date of claim, and in practice the procedure of the Courts is to make an estimate of the probable outlay, to assume that the improvement will last for thirty years, and award to the tenant the sum which in that proportion represents its unexpired value. Thus, if a well is believed to have cost Rs. 300 ten years ago, the Court will award to the tenant Rs. 200. The principle, by no means a just one, for the landlord is exposed to great exasperation by the tenant of his capital outlay, and where the improvements are of old standing these statements are difficult to check. The Lieutenant-Governor considers that the principles laid down in section 83 of the Bengal Tenancy Act are not only in themselves more fair but more simply and readily applied by the Courts, for it is seldom difficult in any village to ascertain the difference in holding value due to irrigation, and it will be the most common of all improvements in Oudh. A section has been accordingly introduced from the Bengal Act, section 20 (A), and the references to outlay and the period of construction omitted from section 22.

19. It is the recognized custom of the province that a tenant cannot make an improvement of a permanent character without the consent of his landlord. So long as the tenant held on a yearly tenure at the will of his landlord, this consent was obtained on terms which were almost always very harsh. This custom does not apply to paragraph 147 of Colonel Havelock's report of 1841 (see page 277 of the second volume of papers on the subject of the Tenancy in Oudh), nor that the consent to any improvement seven years ago is necessary for the landlord's possession of the estate, then the landlord's consent to improvements should now be more readily withheld. It has been ordered by the proposal in the Bill that the tenant shall have the right of applying to the Deputy Commissioner should the landlord refuse his consent, and that the Deputy Commissioner, after hearing the landlord's objections, shall pass such order as may be fair and equitable.

20. On the other hand, it is right, when enhancement is otherwise lawfully resorted to, that arrangements should be made for the resettlement of a tenant on enhanced holdings the produce of which has been increased by a landlord's improvement, and sections 23 and 36 (K) of the Bill have been drafted for the assistance of landlords in this matter.

21. Section 25 of the present Act is believed to have been of very little, if any, value. It has, however, been retained in section 20 (A) of the Bill in a shorter form, taken from the second clause of section 83 of the Bengal Tenancy Act.

22. Chapter III of the Oudh Act refers to commutation and payment of rents in kind. The Lieutenant-Governor proposes to omit the last two clauses of section 28 and the whole of section 29. The commutation of grain rent is an exceedingly delicate and difficult business, while the prevailing opinion as to the advantages and disadvantages of commutation is apt to vary greatly, the authorities leaning sometimes on one side, sometimes on the other. It can hardly ever be expedient that the Government should interpose, during the currency of a settlement, to determine officially a question of this nature, which is essentially connected with local circumstances and conditions of agriculture that are best adjusted by mutual consent; and, since, in fact, the authoritative commutation of rents

is hardly known in Oudh, the Lieutenant-Governor would prefer to leave it, by law, to private arrangement between landlord and tenant, except when a settlement of revenue is in progress. The transition from rents in kind to cash-rent is gradually spreading with the improvement of agriculture, and the process should be left to its natural and spontaneous course.

23. Chapter IV of the Act dealt with the enhancement and settlement of rent. So far as it concerns the right of tenants with a right of occupancy, they are left untouched. In the two sections, 35 and 36, of the Act are contained the whole of the provisions of the present law in regard to the rent of other tenants. To introduce the scheme sketched in paragraph 69 of my letter of 21st December, 1883, the sections numbered 35 to 36 (K) have been substituted for them in the Bill. They give every tenant a statutory right to occupy his holding for seven years, with a new period beginning from every change in rent or area by the landlord, and at the end of every period of tenancy they give him the preferential claim to continue in his holding at a rent that cannot be more than 6½ per cent. in excess of the previous rent, or, if he be ejected, to be paid compensation for disturbance. In short, the landlord cannot disturb the tenant for seven years, and if after that period he desires to eject he must pay compensation. In no case can enhancement of rent, whether upon the sitting tenant or his successor, exceed 6½ per cent. of the old rent; but if the sitting tenant will not agree to an enhancement thus limited he must quit without compensation. The new sections also provide that enhancement shall be by notice; they prescribe a procedure for contesting the notice; and detail the liabilities of the tenant, when he retains or vacates the holding, with or without objection to the notice (clauses 1, 2, and 4, paragraph 69, above quoted). The rights of a tenant are, however, to be personal, and provision has been made in sections 36 (1) and 36 (11) that the heir of a tenant who dies shall retain the holding only till the expiry of the statutory term current at the time of his death; and, subject to any claim by the heir to compensation for improvements, the landlord is left free to let the holding to any person at any rent which may be arranged (clause 6, paragraph 69). The new tenant under section 35 (A) then acquires statutory rights similar to those enjoyed by his predecessor.

24. In section 36 (J) power has been taken by the Local Government to vary the limit of enhancement at stated intervals (clause 3, paragraph 69).

25. In Chapter V of the Act are the provisions for ejectment and the determination of tenancies. In this there has again been much addition and, for the sake of clearness, some re-arrangement of the sections.

26. Section 37 of the Bill reproduces section 41 of the Act unchanged, and states that a tenant with a right of occupancy, and in certain other cases, may be evicted only by a decree for ejectment. Among these tenants is included, by the present Act, a tenant under a special agreement. A tenant evicted by decree is not entitled to the compensation for disturbance given to the statutory tenant of the Bill. The Lieutenant-Governor is of opinion that the section should continue to cover the case of a tenant under special agreement.

27. Section 38 of the Bill is with some alteration section 42 of the Act. It covers the case of all other tenants, and permits their eviction either by a decree for ejectment under section 43 (A) of the Bill, or by an application where decreed arrears of rent remain unpaid, or by the notice of ejectment prescribed by the present Act. The application for ejectment for arrears has been taken from section 35 of the North-Western Provinces Rent Act (XII of 1881), and is a simpler procedure, which the improved position of the tenant justifies, than the application in execution of decree allowed by the present Act.

28. If the landlord proceeds by notice he is required by section 38 (A) of the Bill to deposit the compensation for disturbance, which was part of the scheme of the letter of December, 1883 (paragraph 69, clause 1).

29. In section 39 of the Bill (43 of the Act), which describes the details to be given in the notice, the only important change is that the time of service is put much earlier in the year (15th of November instead of 15th April). Tenancies will now be of seven years' duration, and it is very desirable that notice should be given in sufficient time to admit of all claims on the ground of improvement or other objections being fully sifted and decided before the expiry of the year.

30. Section 40 of the Bill (section 37 of the Act) then details the grounds on which the notice of ejectment may be contested. To the grounds given in the Act have to be added those which the new provisions in the Bill require. The notice may have been issued before the seven years of the statutory tenancy have expired, or the compensation for disturbance may have been deposited only in part or not at all. In sections 40 (A) and 40 (B) of the Bill the tenant is required, if he has any claim to compensation for improvements, to give a specific statement of his claim, and the Court is to determine it before it allows eviction. From the ambiguous language of the Act there have been contradictory rulings in the Rent Courts of Oudh as to the liability of the tenant to eviction before receipt of compensation due to him for improvements. It was clearly the intention of section 22 that he should be compensated before he was removed, and this is definitely expressed in the Bill.

31. Sections 41 and 42 of the Bill represent sections 41 and 45 of the Act with such alterations as the provisions of the preceding sections or experience in the working of the

present Act require. In section 42 of the Bill a clause has been inserted, which was much wanted, enabling the Court to give assistance to the landlord, when needed, to evict a tenant who has contested a notice unsuccessfully. These sections contain the only provisions by which a landlord can remove a tenant of bad character, and no tenant is so likely to resist any action by the landlord himself. If assistance may be properly asked when the tenant has not contested the notice at all, it is more needed when the notice has been contested without valid ground of objection. The section in its present form follows the provision of section 40 of the North-Western Provinces Rent Act.

32. Section 43 of the Bill has been taken, as already explained, from the Rent Act of the North-Western Provinces.

33. Section 13(A) is the provision which the Lieutenant-Governor would substitute for section 11 of the Act, in regard to the terms on which a tenancy may be determined by a decree for ejectment. Section 11 bases it on a failure to perform or observe any of the stipulations of the lease or patta; but the patta of a statutory tenant will not contain any special stipulations, and when such a tenant defaults in his rent the landlord's process will be under section 43 of the Bill.

Even a statutory tenant, however, should be liable to ejectment if he uses his holding in a manner which renders it unfit for the purposes of his tenancy, and provision to that effect, taken from section 41 of the Bengal Tenancy Act, has been introduced in section 13(A) of the Bill. Moreover, many statutory tenants will hold on grain-rents; and as the amount of the landlord's receipts depends on the area the tenant cultivates, the landlord should be ensured against serious damage by the tenant's deliberate neglect to cultivate. In paragraph 77 of my letter of December, 1883, it was recommended that local custom should be left to decide what extent of failure in cultivation should be followed by forfeiture of the holding. This is the object of the second clause in section 13(A) of the Bill.

Tenants, however, "having a right of occupancy, or holding under an unexpired lease, or special agreement or decree of Court," are protected by section 41 of the Act (57 of the Bill) from eviction, except in execution of a decree for ejectment. The section specifies that a decree for ejectment against a tenant with a right of occupancy shall not be made unless at the date of the decree a decree against him for an arrear of rent has remained for fifteen days unsatisfied; but no definite explanation is given of the conditions under which ejectment may be made of the other classes of tenants specified in the section whether for failure in stipulations in the unexpired lease or special agreement, cessation of the effect of the decree of Court, or other ground for eviction. The Lieutenant-Governor presumes that it has been hitherto left to be decided under the general law whether the grounds for eviction in any such case are or are not sufficient, and that it is unnecessary to give any precise specification. This is, however, a matter on which the Legislative Department will advise.

34. In sections 41 and 45 of the Bill, corresponding to sections 38 and 39 of the Act, the period of the year it stated at which ejectment may take place. A sub-lessee is subjected to a special penalty in section 38(A) of the Bill, and there seems no reason for excepting him from the general rule that ejectment shall take place at the close of the agricultural year. As a statutory tenant he could only then be ejected, and for the same reason the last clause of section 38 of the Act should be omitted.

35. In section 39 of the Act the word *thikadār* has been substituted for sub-lessee.

36. Section 40 of the Act has been practically absorbed in section 43 of the Bill.

37. To this chapter of the Act two sections have been added in regard to *sīrs*. The Lieutenant-Governor accepts the opinion that in the home-farms of the landlords no statutory rights should be recognised in the tenants who may from time to time be admitted to cultivate in them. The principle is recognised in the Tenancy Acts of the North-Western Provinces and Bengal. Whenever, however, statutory rights are recognised outside the private lands of the *zamīndār*, it becomes necessary to define what these private lands are. Hitherto there has been in Oudh no special reason for entering as *sīr* in the rent-rolls land which is not *sīr*; for the change of law now proposed, which is to restrict the arbitrary powers of landlords over all holdings that are outside *sīr*, has not been anticipated, and the revision of assessment is still sufficiently distant to make it more convenient for the collection of rent that land let to tenants shall be so recorded. From all that has been reported the village rent-rolls are in this respect, as indeed in most others, very fairly correct; and the Lieutenant-Governor is disposed, therefore, to make a less exacting definition of *sīr* than that in force in the North-Western Provinces. The definition of *sīr* which is given in section 16 (A) of the Bill is for these reasons less stringent in several particulars than that which is laid down in section 3 of the North-Western Provinces Rent Act. It has been proposed on some authority to adjust this definition on the principle of allowing land to fall into *sīr* and again to fall back into ordinary tenancy land by fixing certain periods after which continuous cultivation by the landlord or by a tenant should determine the character of the cultivating occupancy. The rule of the North-Western Provinces is to fix a long period of continuous cultivation by the landlord, and then to make the lands so cultivated a permanent addition to his original *sīr*, whether he continues to cultivate or lets to a tenant. The Bengal Act prevents any accession to the present *sīr* unless it is recognised by village custom.

The Lieutenant-Governor would have been glad, nevertheless, to adopt a proposal which is quite in keeping with the fluctuation of all agricultural enterprises, and the developments and depressions which circumstances frequently induce in agricultural families. No adjutant, however, has been discovered to refer to the recognition of land as *sir* and their restoration to the normal conditions of society which the landlord will not be able so to manipulate as to exclude from the status of *propeus* an area of cultivated land considerably larger than that which he for the time being occupies. For the purposes of the landlord's enjoyment, moreover, there is no restriction on the development. When a tenant's holding falls in by his death, it is open to the landlord to occupy it himself instead of letting it to another tenant. Whether, therefore, a *propeus* *sir* or not will merely operate in determining whether the landlord can subvertently let it without initiating the usual *tenancy* proceedings by his tenant. After mature consideration the Lieutenant-Governor is of opinion that *sir* to the extent of all present requirements is provided for by the provisions as it stands in the Bill, that this may, as in the North-Western Provinces and Oudh, be permanently excluded from the operation of the sections which regulate the ordinary holdings of tenants, but that for all temporary provisions made by the law to enable small holders to cultivate land for a definite period, to remove permanently any lands from the general operation of this section.

38. The section 14-B of the Bill has been added to meet the case of lessees and mortgagees who demand their mortgages levied on the land under their personal cultivation. These are the cases which, on the expiry of the lease or on redemption of the mortgage, are paying no rent and unless some express provision is made the lessor or mortgagee would apparently have not only the customary rights of a landlord, but be entitled to sit rent-free.

39. In Chapter VI (Distress for Arrears of Rent) the Lieutenant-Governor proposes no change.

40. In Chapter VII (Jurisdiction of the Courts) the change is few.

41. In the proposed sections on appeals changes have been made in the terms of section 14 of the North-Western Provinces and Oudh Act, of 1872, for the jurisdiction of all Courts other than Courts of Revenue to be abolished.

In clause 3 it seems unnecessary to insert a suit for redemption in the case of an equity tenant. A lessee, in whose lands there may be a lease, may be liable to a suit for redemption.

The last part of clause 4 is unnecessary for reasons stated in an earlier part of this letter.

In clause 9 an addition is necessary from the terms of section 23 of the Bill.

In clause 10 an addition is required by section 21-A of the Bill.

42. In section 91 an addition is proposed authorising the Local Government to invest any officer of the revenue a Deputy Collector with the powers of a Deputy Commissioner to hear applications by a tenant under section 44 to make improvements, or of a landlord under section 45 to eject a tenant for arrears of rent.

43. Section 102 of the Act gives summary power to Deputy Collectors to restore possession to a person allegedly dispossessed. From orders under this section there is no appeal. Against the section there has been much complaint, and now that the position of the tenant will be comparatively secure it is preferable that the restoration should be by ordinary suit, subject to the usual appeal. For this section of the Act has been substantially altered since 1872, and the landlord to recover a land rent for land which has been occupied by a person claiming the force of any such possession for many years, or to prevent a person from the force of any such possession. The only remedy open to the landlord hitherto, when a tenant has been summarily dispossessed, has been to eject him, or to ask him by the ordinary process of a suit in the Civil Court for damages. If the land has been held in the past years, the provisions of sections 45 and 46 of the Act prevent the landlord from recovering any rent in the Rent Court.

44. Section 103 of the Act provides that in all suits under the Act the summons to the defendant shall be for the landlord. For the suit. This suit is in many cases intricate, and will hereafter involve and consist of a series of a longer and more valuable character. It is proposed to limit this provision to specified cases only.

45. Section 116 of the Act is no longer consistent with the general provisions of the Bill, and shall be omitted.

46. Section 125 of the Act provides that sale of an under-proprietary tenure shall not be made if satisfaction of the decree can be made by management of the tenure under sections 213 and 214 of the Civil Procedure Code of 1859 (or the corresponding sections of the Code of 1882). Management of under-proprietary tenures by the Deputy Commissioner has for some time, however, been recognized as practically impossible. They are generally small; as they come under the Deputy Commissioner's charge, they are usually settled, and official management can be neither efficient nor economical. If the under-proprietor can give the Deputy Commissioner any anticipation that a private adjustment of

the judgment-debt can be effected by mortgage or otherwise, time can always be given under section 305 of the Code of 1852, and the Lieutenant-Governor's opinion on the whole is that all of the section, except the first sentence, may be without disadvantage omitted.

47. In a concluding chapter (X) of the Bill are entered four new sections.

48. Section 120 reserves to the Local Government authority, under the sanction of the Governor General in Council, to appoint an officer for the revision of rents in an estate in which from grave mismanagement the condition of the tenantry has been materially deteriorated or the area of the cultivation diminished. This formed the seventh clause of the scheme in paragraph 69 of the Letter of 21st December, 1883, and the reasons for the provision have been there sufficiently explained.

49. Under the present registration law all pottas for seven years, for however small a sum, must be registered. The inconvenience of an enforced registration throughout the country would be very serious, and all the pottas of all tenants will be checked by the supervisor-lanangos, registration being to be unnecessary. The object of registration is practically effected by his verification, and registration will be difficult when the verification is made in the course of his circuit rounds. It is proposed, therefore, in section 130, to exempt pottas for the statutory period of seven years from the Registration Act.

50. In section 131 reference is made to a schedule in which will be entered certain tracts which the Lieutenant-Governor proposes to exclude from the general rule of a statutory right of appeal to the Darul Arza. It has been explained in paragraph 78 of the Letter of December, 1883, that a part of the mountain and submountain districts, the area of which is so exceptional, the mountainous country is, for the reason, and the parties are to be decided on each tract. With the exception of the general proposals of the Bill, in which it is provided that in these tracts the proprietary is private, and the tenants can command the Government. A list of the areas to be included will be forwarded subsequently.

51. In the last section (132) of the Bill power is taken to the Local Government to make any rule necessary under the Act and consistent with it. The terms of the section have been taken from the last clause of section 211 of the North-Western Provinces Rent Act.

S. HARVEY JAMES.

Offg. Secy to the Govt. of the North-Western Provinces.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

Second publication.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of amending Laws and Regulations on the 9th June, 1886, and was referred to a Select Committee:—

NO. 8 OF 1886.

A Bill to alter the constitution of the Indian Museum, and to confer certain powers on the Trustees thereof.

WHEREAS it is enacted that the constitution of the body corporate known as the Trustees of the Indian Museum, and the powers relating to the powers of the said Trustees, are hereby amended as follows:—

1. (1) The Act may be called the Indian Museum Act, 1876, and

(2) It shall come into force at once.

2. Sections 3, 4 and 5 of the Indian Museum Act, 1876, are repealed.

3. For those sections the following shall be substituted, namely:—

Composition of the Trustees.

3. The Trustees of the Indian Museum shall be—

- (a) the person for the time being holding the office of Accountant-General of Bengal;
- (b) five other persons to be appointed by the Governor-General in Council;
- (c) five other persons to be appointed by the Lieutenant-Governor of Bengal;
- (d) five other persons to be appointed by the Council of the Asiatic Society of Bengal; and
- (e) five other persons to be appointed by the Trustees;

and the said Trustees shall be a body corporate by the name of the Trustees of the Indian Museum, and shall have perpetual succession and a common seal.

4. All the powers of the said body corporate may be exercised so long and so often as there are nine members thereof.

5. If a trustee appointed under section 3 dies, or is absent from India for more than twelve consecutive months, or desires to be discharged, or refuses or becomes incapable to act,

or becomes Accountant-General of Bengal, then the authority which appointed the trustee may appoint a new trustee in his place.

4. (1) For the purposes of the Indian Museum Act, 1876, it is enacted that XXII of the Act—

(a) the persons nominated by the Governor-General in Council under the Indian Museum Act, 1876, and now holding office in that Act, shall be deemed to be persons appointed by the Governor-General in Council in that Act as amended by this Act;

(b) the persons nominated by the Council of the Asiatic Society of Bengal, and the other members of the Council of that Society, nominated by that Council under the Indian Museum Act, 1876, and now holding office as Trustees, shall be deemed to be persons appointed by the Council of the Asiatic Society of Bengal under the said section; and

(c) the persons elected and appointed by the Trustees under the said Act, and now holding office as Trustees, shall be deemed to have been appointed by the Trustees under the said section.

5. The Secretary to the Government of India and the Superintendent of the Geological Survey of India shall be ex-officio members of the said body corporate.

6. Notwithstanding anything to the contrary in the Indian Museum Act, 1876, XXII of

the Trustees of the Indian Museum, if they shall be empowered with the previous sanction of the Governor-General in Council, and subject in each case to such conditions as he may approve and to such rules as he may from time to time prescribe, assume the custody and administration of collections which are not the property of the Trustees for the purposes of their trusts in that Act mentioned, and keep and preserve the collections either in the Indian Museum or elsewhere; and

(b) in the event of the trust constituted by that Act being determined, the collections of which the Trustees have assumed the custody and administration under the foregoing part of this section shall not, by reason of their then being in the Indian Museum, become the property of the Government of India.

7. And whereas it is provided in the Indian Museum Act, 1876, that the Trustees of the Indian Museum shall have the exclusive possession, occupation and control, for the purposes of their trusts in that

Act mentioned, of the whole of the building called the Indian Museum, except certain portions thereof set apart for other purposes; and whereas the Trustees are by virtue of that provision in possession of the property described in the Schedule to this Act: It is hereby enacted as follows:—

6. The Trustees may, with the previous sanction of the Government, convey or transfer any part of the property comprised in the said Act, subject to such conditions as he may approve, deliver possession of that property to such person as the Lieutenant-Governor of Bengal may appoint in that behalf.

THE SCHEDULE.

Land bounded on the north by a straight line drawn between the east and the west boundaries parallel to the main south wall of the Museum at a distance of twenty-five feet from the said wall, on the west and south-west by the Chowringhee Road and the walls of the premises known as No. 29 Chowringhee Road, on the south by Kyd Street, and on the east by the walls of the premises known as No. 15 Kyd Street and No. 1 Chowringhee Lane, measuring in all four acres, three rods and sixteen perches, together with all buildings, roads and tanks existing or erected thereon, and all easements appertaining thereto.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to give effect to an arrangement, made with the approval of the Government of India, whereby—

- (a) The Bengal Government is to be represented among the Trustees of the Indian Museum;
- (b) The Bengal Government is to be the Trustees of the property comprised in the Schedule to the Bill, and is to be the owner of the same; and
- (c) The Bengal Government is to be the Trustees of the property comprised in the Schedule to the Bill, and is to be the owner of the same; and

Sections 3 and 4 provide for the representation of the Bengal Government among the Trustees, and section 5 and 6 empower the Trustees to assign the custody of the collections belonging to the Bengal Government, and to deliver to that Government the land upon which the School of Art and Art Gallery are to be built.

18th 25th May, 1886.

S. C. BAYLEY

S. HARVEY JAMES

Secretary to the Government of India

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th June, 1886.—

No. 9 OF 1886.

THE DEBTORS BILL, 1886.

CONTENTS.

SECTIONS.

1. Short title and commencement.
2. Extent.
3. Definition.
4. Enforcement of decree or order for money by imprisonment permissible in excepted cases only.
5. Discretionary powers of Courts in some excepted cases.
6. Power to make rules for guidance of Courts in other excepted cases.
7. Provisions as to imprisonment under Act.
8. Commitment of fraudulent debtors to Magistrate.
9. Special provisions with respect to arrest before judgment.
10. Saving of proceedings antecedent to commencement of Act.
11. Act to bind the Crown.
12. Powers exercisable from time to time.

A Bill to amend the law relating to Imprisonment for Debt.

WHEREAS it is expedient to amend the law relating to imprisonment for debt; It is hereby enacted as follows:—

1. This Act may be called the Debtors Act, 1886; and it shall come into force on the first day of January, 1888.

2. (1) This Act shall extend, in the first instance, only to the territories administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh.

(2) But any other Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, extend this Act, with effect on and from a day not less remote than one year from the date of the notification, to the whole or any specified part of the territories under its administration or to any class of debtors within the whole or any specified part of those territories.

3. In this Act the expression "Revenue Court"

means a Court having jurisdiction in suits for the rent, revenue or profits of land.

4. Notwithstanding anything in the Code of Civil Procedure or any other enactment, a person shall not be liable to arrest or imprisonment for default in compliance with a decree or order of a Civil or Revenue Court for payment of money except in the following cases:—

(a) where the order is for payment of a fine; [Act X, 1882, s. 180; Act XIV, 1882, ss. 170, 171 & 412.]

(b) where the defaulter is a trustee or person acting in a fiduciary capacity, and the decree or order requires him, as such, to pay any money which is in his possession or under his control, or any money for which he is accountable and of which he has not discharged himself; [32 & 33 Vic., c. 62, s. 4; Guardians and Wards Bill, 1886, s. 38.]

(c) where the Court is satisfied that, since incurring the liability in respect of which the decree or order was made, the defaulter has fraudulently transferred, concealed or removed any part of his property, or committed any other act of bad faith in relation thereto, with the object or effect of impeding the enforcement of the decree or order by the attachment and sale of his property; [Act XIV, 1882, s. 359.]

(d) where the Court is satisfied that the defaulter either has, or has had since the date of the decree or order, the means to pay the money, and has refused or without reasonable cause neglected, or refuses or neglects, to pay the same. [32 & 33 Vic., c. 62, s. 5.]

5. In any case coming within the exception specified in clause (b) of section 4 the Court may, after inquiry into the case, exercise its discretionary powers in some excepted cases.

grant or refuse, either absolutely or on terms, any application for the arrest or imprisonment of the defaulter, or for his release from arrest or discharge from imprisonment.

[Act XIV,
1882, s. 287;
32 & 33 Vic.,
c. 62, s. 5.]

6. (1) The High Court, with respect to Courts subordinate to it, and the Chief Controlling Revenue authority, with respect to Courts subordinate to it, may, with the approval of the Local Government and the sanction of the Governor General in Council, make rules for regulating the procedure to be observed in inquiries for determining whether the case of a defaulter for whose arrest or imprisonment application has been made is a case coming within the exceptions specified in clauses (c) and (d) of section 4, or within either of these exceptions.

(2) Rules may be made under this section—

(a) for the territories administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh, at any time after the passing of this Act, and

(b) for territories under the administration of any other Local Government, at any time after the publication of the notification extending this Act to those territories or to any class of defaulter therein;

but rules so made shall not take effect until the Act comes into force in the territories for which they have been made.

(3) An authority making rules under this section shall, before making the rules, prepare a draft of the proposed rules in such manner as the Governor General in Council, by notification in the Gazette of India, prescribes.

(4) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(5) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(6) A rule made under this section shall not take effect until it has been published in the local official Gazette.

(7) The publication in that Gazette of a rule purporting to be made under this section shall be conclusive proof that it has been duly made.

7. The operation of the enactment under which the defaulter is liable to

Provisions as to imprisonment in any case coming within the exceptions specified in clauses

(b), (c) and (d) of section 4, or within any of those exceptions, or is entitled to release from the arrest or discharge from the imprisonment, shall be subject to the following provision, namely:—

(a) the defaulter may be imprisoned for such term, not exceeding six months, as the Court directs;

(b) no allowance for the subsistence of the defaulter, or for supplying him with clothing or bedding, shall be payable by the person on whose application the order for the imprisonment of the defaulter is made;

(c) during the term of his imprisonment the defaulter shall be maintained at the

expense of the Government, and be subject, as nearly as circumstances admit, to the discipline prescribed in the case of a criminal prisoner undergoing simple imprisonment;

(d) notwithstanding the payment of the money in respect of which the decree or order was made, or any arrangement for the payment thereof or proof of present inability to pay it, or any expression of intention to apply for a declaration of insolvency, or any request by the person on whose application the order for the arrest or imprisonment was made, the defaulter shall not be released from arrest, or, if he is in prison and the term of his imprisonment is not fulfilled, be discharged from prison, without the order of the Court;

(e) an appeal from the order for the imprisonment of the defaulter, and from an order refusing his release or discharge under clause (d) of this section, shall lie—

(i) if the Court making the order is a Civil Court subordinate for the purposes of the Code of Civil Procedure to the District Court, then to the District Court,

(ii) if the Court making the order is any other Civil Court, then to the High Court, and

(iii) if the Court making the order is a Revenue Court, then to the authority to which appeals lie from orders of the Court relating to the execution of decrees, or, where those orders of the Court are final, to such authority as the Local Government may, by notification in the official Gazette, appoint in this behalf;

and the order passed on the appeal shall be final.

8. Where the Court is of opinion that the Commitment of fraudulent defaulter has been guilty of any offence under the Indian Penal Code or under any enactment for the time being in force for the punishment of fraudulent debtors, it may, if it thinks fit, instead of ordering his imprisonment under this Act, send him to a Magistrate to be dealt with according to law.

9. Notwithstanding anything in Chapter XXXIV of the Code of Civil Procedure, or any other enactment, a defendant in a suit for money only who has been arrested before judgment shall not, as such, either be required to give security for his appearance at any time after the day on which judgment is given, or, if he has been committed to prison, be detained in prison after that day;

Provided that, if judgment is given against the defendant, and the decree-holder applies, on the day on which judgment is given, for the enforcement of the decree by the imprisonment of the judgment-debtor, the Court may require the judgment-debtor to give such security as it thinks

Act XIV,
1882, s. 312.
Act XII,
1881 s. 163.]

Act XIV,
1882, s. 339;
Act XII, 1881,
s. 165 and
166; & Act
XXVI, 1870,
s. 36.]

[L. R., I
Ch. D.,
1882, s.
& 311, s.
XII, 188-
163.]

[Act XI
1882, s.
129.]

[Act XII
1881, s. 1]

[Act XIV
1882, s. 6
Act XII, 1
s. 163.]

[Act
1882, s. 1
XLV of 1
[Indian P
rury, 1886, s. 1]

[32 & 33
c. 62, s. 5
XIV of 18

sufficient for his appearance at any time when called upon while the application is pending, and, if he fails to give the security, may commit him to prison, or place him in the custody of an officer of the Court, until the disposal of the application.

10. Nothing in this Act shall affect the liability Saving of proceedings to arrest and imprisonment of any person for whom a writ in execution of a decree or order a warrant has been issued by a Civil or

Revenue Court before this Act comes into force in the territory in which the Court is established.

11. The provisions of this Act shall bind the Act to bind the C. au. Crown.

12. All powers conferred by this Act may be Power exercisable from time to time. exercised from time to time as occasion requires.

STATEMENT OF OBJECTS AND REASONS.

Imprisonment for Debt in India.

A decree or order for the payment of money may be enforced in India by the imprisonment of the judgment-debtor (Act XIV of 1882, s. 251). The Court has a discretionary power to refuse execution at the same time against the person and property of the judgment-debtor (s. 230), but has no discretionary power to refuse execution either against person or against property at the option of the creditor. When an application for execution of a decree is presented, it must, if it is not barred by efflux of time and is otherwise in order, be admitted, and then the Court must order execution of the decree *according to the nature of the application* (s. 245). The Court cannot refuse to issue its warrant for the execution of the decree unless it sees cause to the contrary (s. 250), and "cause to the contrary," as interpreted by the Courts, means some cause which deprives the decree-holder of the right to execute, or to execute against the party against whom execution is sought, or to execute in the mode prayed for.

2. A judgment-debtor may, when arrested, obtain immediate release by payment of the debt; but if he does not, he must be brought at once before the Court (ss. 336-337).

3. The Local Government may by notification* direct that whenever a judgment-debtor is arrested in execution of a decree for money, and brought before the Court, the Court shall inform him that he may apply, under Chapter XX of the Code, to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of his application, and if he places all his property in possession of a receiver appointed by the Court (s. 336).

4. If the judgment-debtor expresses his intention so to apply, and furnishes sufficient security that he will appear when called on, and that he will, within one month, apply to be declared an insolvent, the Court is to release him from arrest. But if he fails so to apply, the Court may either direct the security to be realised, or commit him to prison in execution of the decree (s. 336).

5. A person is not to be imprisoned in execution of a decree for more than six months, or, if the debt does not exceed fifty rupees, for more than six weeks (s. 312).

6. Whilst he is in prison, a monthly allowance must be paid for his subsistence according to scales fixed by the Local Government. The allowance is to be supplied by the decree-holder, and is to be deemed costs in the suit (ss. 338 to 340).

7. He is to be discharged from prison—

- (a) on the amount mentioned in the warrant of committal being paid to the officer in charge of the prison, or
- (b) on the decree being otherwise fully satisfied, or
- (c) at the request of the person on whose application he has been imprisoned, or
- (d) on default in the payment of the allowance for his subsistence, or
- (e) on his being declared an insolvent, or
- (f) on the expiration of the term of his imprisonment (s. 341).

His discharge from prison does not discharge him from his debt, but he cannot be re-arrested under the same decree (s. 341).

8. By the Presidency Small Cause Courts Act, XV of 1882, the provisions of the Code of Civil Procedure are applied, with modifications and exceptions, to the procedure in the Small Cause Courts at Calcutta, Madras and Bombay. Among the provisions not so applied are those which relate to the release of an arrested judgment-debtor on his expressing an intention to apply for a declaration of insolvency. Chapter XX of the Code, relating to insolvent judgment-debtors, is also not applied to these Courts. (See s. 23 and sched. II.)

9. The Act, however, contains certain special provisions with respect to an arrested judgment-debtor. Under section 29 the Court may release him from arrest on his giving security for payment. And under section 30, if it appears to the Court that a judgment-debtor under its decree is unable, from sickness, poverty or other sufficient cause, to pay the amount of the decree, or of any instalment under the decree, the Court may, from time to time, for such time and on such terms as it thinks fit, suspend the execution of the decree, and release the debtor, or make such order as it thinks fit.

10. In the four districts of the Dekkhan to which the Dekkhan Agriculturists' Relief

* "No agriculturist shall be arrested or imprisoned in execution of a decree for money passed whether before or after this Act comes into force."—(Act XVII of 1879, s. 21, as amended by Act XXII of 1882, s. 8.)

Acts apply arrest and imprisonment for debt have been abolished in the case of agriculturists.* And certain special Acts for the relief of embarrassed landholders contain provisions protecting the debtor from arrest or imprisonment in respect of the debts

to which the Acts apply.

Imprisonment for Debt in England.

11. Imprisonment for debt was abolished in England by the Debtors Act of 1869 (32 & 33 Vic., c. 62), except in the following cases:—

- (1) default in payment of a penalty, or sum in the nature of a penalty, other than a penalty in respect of a contract;
- (2) default in payment of a sum recoverable summarily before a Justice or Justices of the Peace;
- (3) default by a trustee or person acting in a fiduciary capacity and ordered to pay by a Court of Equity any sum in his possession or under his control;
- (4) default by a solicitor in payment of costs, when ordered to pay costs for misconduct as such, or in payment of a sum of money, when ordered to pay the same in his character of an officer of the Court;
- (5) default in payment for the benefit of creditors of any portion of a salary or other income, in respect of the payment of which any Court having jurisdiction in bankruptcy is authorized to make an order;
- (6) default in payment of sums in respect of the payment of which orders may be made under the Act (that is, cases of contumacious refusal under section 5 of the Act, see para 14).

12. The term of imprisonment in these excepted cases must not exceed one year (s. 4).

13. In cases (3) and (4) the Court has power to enquire into the case, and at discretion to grant or refuse an order for arrest or imprisonment (41 & 42 Vic., c. 51, s. 1).

14. Under section 5 of the Act of 1869, a Court may commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt, or instalment of any debt, due from him in pursuance of any order or judgment of that or any other competent Court. But the power is not to be exercised unless it is proved to the satisfaction of the Court that the person making default has, or has had, since the date of the order or judgment, the means to pay the sum in respect of which he has made default, and has refused or neglected to pay it. "Proof of the means of the person making default may be given in such manner as the Court thinks just, and for the purposes of such proof the debtor and witnesses may be summoned and examined on oath, according to the prescribed rules." A summons under this section is usually called a judgment summons.

15. It will be observed that all the cases in which a debtor is liable to imprisonment under the Act of 1869 involve some degree of delinquency.† And it has been held by high authority‡ that the Act was distinctly intended for the purpose of punishing fraudulent or dishonest debtors.

16. Sums recoverable summarily before Justices, or, as they are called in modern statutory language, Courts of summary jurisdiction, are usually fines. But as ordinary civil debts are in some cases so recoverable, it has been provided by the Summary Jurisdiction Act, 1879 (42 & 43 Vic., c. 49, section 35) that an order of a Court of summary jurisdiction for the payment of a civil debt is not to be enforced by imprisonment, unless the case is such as would make the debtor liable to imprisonment under section 5 of the Debtors Act, 1869.

Imprisonment for Debt in Scotland.

17. In Scotland imprisonment for debt for sums under £5-6-8 was abolished in 1835 by 5 & 6 Wm. IV, c. 70, but alimentary debts (that is, debts for the support of the debtor's wife or children) were excepted from the operation of that Statute. In 1880 was passed the Debtors (Scotland) Act, 1880 (43 & 44 Vic., c. 34), which enacts, by section 4, that,

"with the exceptions hereinafter mentioned, no person shall, after the commencement of this Act, be apprehended or imprisoned on account of any civil debt.

"There shall be excepted from the operation of the above enactment—

- (1) taxes, fines or penalties due to Her Majesty, and rates and assessments lawfully imposed or to be imposed;
- (2) sums decreed for aliment:

"Provided that no person shall be imprisoned in any case excepted from the operation of this section for a longer period than twelve months."

The same Act contains provisions for the relief of insolvent debtors and for the punishment of fraudulent debtors.

18. By the Civil Imprisonment (Scotland) Act, 1882 (45 & 46 Vic., c. 42), imprisonment for alimentary debts was abolished, except in cases where there is a wilful failure to obey the decree for the debt (ss. 3 and 4), and the maximum term of imprisonment for failure to pay rates or assessments was reduced to six weeks (s. 5).

Imprisonment for Debt in Ireland.

19. In Ireland the law as to imprisonment for debt is regulated by the Debtors Act (Ireland), 1872 (35 & 36 Vic., c. 57), as amended by 41 & 42 Vic., c. 54, and is practically identical with the English law.

Proposals for amendment of Indian Law.

20. On the 17th November, 1881, a circular was addressed by the Government of India to all Local Governments and Administrations, stating that the Government of India had under consideration the question of amending the provisions of the Code of Civil Procedure bearing upon the question of the arrest of *pardānashin* women in execution of the decrees of Civil Courts, but that before coming to any final conclusion on the subject the Governor General in Council thought it desirable to deal with the larger question of abolishing imprisonment for debt, and for this purpose to enquire whether sufficient reasons exist for the continued maintenance in India of the present system. Local Governments and Administrations were accordingly requested to favour the Government of India with a full expression of their opinion on the matter.

21. The replies to the circular disclosed much difference of opinion as regards the advisability of maintaining in India the present system of imprisonment for debt.

22. In favour of the maintenance under existing circumstances of the present system of imprisonment for debt were the Madras Government, the Madras High Court, the Bombay Government, the Bombay High Court, the Calcutta High Court, the Calcutta Chamber of Commerce and the Trades Association, Calcutta (unless a change were accompanied by the enactment of a stringent bankruptcy law), the British Indian Association, Calcutta, the Board of Revenue, North-Western Provinces, the Punjab Chief Court, the Chief Commissioner of the Central Provinces, the Chief Commissioner of Assam (provided the law were so altered as to permit the issue of process against the person only after all means of realising the decree by process against property have been exhausted), and the Chief Commissioner and the Judicial Commissioner of Coorg. The arguments which they advanced appear to be in the main the following:—

- (a) that the total abolition of imprisonment for debt in India would be premature, and would remove from the Statute Book the only check upon the fraudulent alienation of property by solvent but dishonest debtors;

- (b) that legislation has proceeded quite far enough in relief of the judgment-debtor,

* Sir C. Sargent, of the Bombay High Court, wrote:—

"The legal incidents of the undivided Hindu family, the minute distribution of property caused by the Muhammadan law of descent, and, though last not least, the practice of creating benami titles so common in this country, afford the dishonest debtor endless opportunities of baffling the efforts of the judgment-creditor to attach his property."

while there are in India special difficulties in executing a decree by attachment of property when the judgment-creditor is a member of an undivided* family. Creditors are not, it is said, in the habit of proceeding to extremities unless the debtor has the means of liquidating a portion at least of the debt. The men who go to prison are

for the most part those who obstinately refuse to pay their debts, and cases of imprisonment for debt are not numerous;

- (c) that the abolition of imprisonment for debt would deprive lenders of personal security, would thereby depreciate credit, and would involve an increase in the rate of interest, already very high. In the case of agriculturists this might seriously impair their ability to pay the land-revenue;

- (d) that abolition of imprisonment for debt should only be attempted when the habits of secrecy, engendered by centuries of oppression, have partly worn away, and when transactions are open and the registration of deeds and bonds has become habitual. When the debtor's property can be easily traced and seized in execution of a decree, then it will be reasonable and right to withhold execution on the body of a pauper debtor except as a distinctly exceptional and penal measure in the case of fraud.

23. In support of the abolition of imprisonment for debt were the following authorities:—

- (a) the Advocate General of Bengal, who advocated the introduction of the English system, because there is no reason why the matter should not be regulated in India as in England, if proper exceptions and limitations, as contained in the English Debtors Act of 1869, are prescribed, and because the abolition of imprisonment for debt would not cause any public injury, while, on the other hand, the present system in most instances operates only as a means of oppression, to the total ruin of the party imprisoned and of his family;
- (b) the Bengal Government, which, while not prepared to resist the opinions of the local officers that abolition would at present be premature, thought that, if an alteration of the bankruptcy law were at any time undertaken, measures might then be adopted for the abolition of imprisonment for debt in cases where fraud is not established against the judgment-debtor;
- (c) the North-Western Provinces and Oudh Government, which regarded the existing practice of placing in the creditor's hands the power of selecting his own method of coercion as a relic of the old semi-barbarous debt laws which has now been eliminated from almost every civilized code of judicial procedure. The present system operates with severity against all debtors, honest and dishonest, indiscriminately. The power of subjecting a debtor to arrest and imprisonment should be entrusted *not* to the decree-holder, but to the Courts, and its exercise should be limited to cases where clear proof exists of fraudulent and contumacious attempts on the part of the judgment-debtor to defeat the operation of a decree. Imprisonment is especially hard on the cultivator and working-man, whom it deprives of their means of subsistence and of providing for their families;
- (d) the North-Western Provinces High Court, which advocated the abolition of imprisonment for debt, as it is doubtful whether "any useful purpose is served by the perpetuation in this country of that remnant of barbarism";
- (e) the Punjab Government, which believed that there is some reason to fear that, under the present system, creditors occasionally make use of the law to gratify vindictive feelings or personal spite, and to coerce debtors to sell their land and property at a price below its proper value or to relinquish their just rights. Discretionary power ought to be expressly allowed to the Civil Courts, imprisonment not being resorted to as an ordinary process of execution of a decree, unless the Court is satisfied that there has been fraud or wilful concealment of property;
- (f) the Chief Commissioner of British Burma, who pointed out that the imprisonment of debtors who are paupers, but who are not fraudulent, does no real good to any class, works directly and indirectly great harm to the poorer classes, and causes a distinct loss to the community at large. The practice of permitting such imprisonment has been gradually circumscribed among other civilized nations; among some nations it has absolutely ceased; and there is no reason why the way should not be paved for the disappearance of the system in India. Civil Courts should be allowed to grant execution against the body of judgment-debtors against whom there might be *prima facie* ground for presuming fraud or bad conduct, unless the presumption were rebutted by the judgment-debtor;
- (g) the Judicial Commissioner of British Burma and the Recorder of Rangoon, who were of opinion that imprisonment for debt should be abolished, except in case of fraud, which should be punished criminally. The Recorder recommended that the law as it now obtains in England should be applied to India;
- (h) the Resident at Hyderabad, who considered that the present system of imprisonment for debt is not wanted to compel payment, while it may be used to bring undue pressure to bear upon a debtor, especially in an agricultural country where interest in land is generally given as security for debts. He recommended that imprisonment for debt should be retained only to meet cases in which debtors abscond or endeavour to fraudulently evade meeting their obligations.

24. Thus, the preponderance of opinion was on the whole in favour of the maintenance of imprisonment for debt under the present condition of India, but a considerable and influential minority were in favour of its abolition.

25. The arguments on which the upholders of the present system rely fall into two classes: first, arguments which, if valid at all, are valid for England as well as for India; and, secondly, arguments based on the special circumstances and conditions of India.

26. To arguments of the first class belongs the assertion that "to remove from the Statute Book the penalty of arrest and imprisonment in execution of a decree for money would be to paralyze the commerce and trade of the country." The same objection was made in

* See Lord Cottenham's speech in 1814 on the Creditors and Debtors Bill; Hansard, 71, page 153.

England, first to the abolition of arrest on mesne process,* and afterwards to the abolition of arrest on final process. The power of arrest was removed, and neither commerce nor trade shewed any symptoms of paralysis.

27. Those who uphold imprisonment for debt, not as being generally expedient, but as being specially required for India, do so mainly on two grounds: first, the complexity and obscurity of Indian titles to property; and, secondly, the exceptional prevalence of fraud in India, and the exceptional difficulties of detecting it.

As to the first ground, it has been remarked that if it is wrong to allow a debtor to pledge his person as security for his debts, it is not the less wrong because, owing to the defect of Indian property law, he finds difficulty in giving a satisfactory security over his property.

In the argument based on the prevalence of, and difficulty of detecting fraud, there is undoubtedly much force, though it may be doubted whether the obstacles which can be placed in the way of a creditor realizing his debts are not as great in England as in India. But, however this may be, to make an honest, though needy, debtor liable to imprisonment, simply because fraudulent debtors are numerous and difficult to detect, appears to be as unjust as it would be to make homicide by misadventure punishable by death, simply because the crime of murder was rife and hard to prove.

28. There are in the opinion of the Government of India two principles which ought to be observed in every law of debtor and creditor. The Courts ought not to give effect to any pledge by a debtor either of his person or of the bare necessities of life. The debtor ought not to be allowed, by his own action, supplemented by the action of the Courts, either to deprive himself of his personal liberty, or to reduce himself to starvation. If he cannot obtain credit except on one or other of these securities, it is better that he should not obtain credit at all. Experience acquired in the Dekkhan goes to show that these principles are as applicable to India as to England. The Code of Civil Procedure recognises one of these principles by exempting from seizure for debt the debtor's bare means of subsistence. But this recognition is nullified by the refusal to adopt the principle of exempting the debtor's person from seizure. Of what use is it to reserve by law to the debtor the bare necessities of life, when he can be compelled to give them up by the threat of imprisonment? By those who advocate the retention of the present system, much reliance is placed on the very small proportion of actual imprisonments to warrants of arrest; and the inference drawn from this proportion is that the law, though harsh in theory, produces no hardships in practice. But there is reason to believe that, in the great majority of cases, exemption from arrest is purchased either by renewal of bonds on extortionate terms, or by surrender of property which the law has exempted from seizure, or by surrender of property which does not belong to the debtor at all, but to his relations or friends. In other words, the law enables a creditor to do indirectly what it forbids him to do directly.

29. It is said that the honest debtor has an easy way out of prison through the door of insolvency. But in the first place, the honest debtor ought not to be sent to prison at all; and in the next place, the door which is provided for his release is, for some reason or other, very rarely used. There is, or was until recently, a strong concurrence of opinion to the effect that the Insolvency Chapter of the Code of Civil Procedure is practically a dead letter. As to the causes of its failure,—whether it is to be accounted for by the preliminary proceedings being unnecessarily cumbrous or expensive, or by the difficulty of satisfying the Court under section 351 that the debtor has not been guilty of any kind of misconduct, or by ignorance of the law and of the modes of relief available to debtors,—opinions differ; but about the fact of failure there appears to be no difference.

30. Since 1883 the Government of India has received and published reports obtained from Her Majesty's representatives abroad on the systems of imprisonment for debt in force in the various countries to which they are accredited. Those reports showed that imprisonment for debt has been abolished in nearly all civilized countries.

31. Having regard to the state of the law in the United Kingdom, to those reports, to the success which has attended the abolition of imprisonment for debt in the case of agriculturists to whom the Dekkhan Agriculturists' Relief Acts apply, to some expressions to be found in the opinions of the authorities who considered the draft Bankruptcy Bill of 1885, and to the advocacy by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh, and by the Chief Justice and Judges of the High Court of Judicature for the North-Western Provinces, of the entire abolition of the process of arrest for debt, so far as it is a process that can be set in motion at the discretion of the creditor, and of the enforcement of the process being restricted to cases in which the Courts are satisfied that there have been fraudulent and contumacious attempts to defeat the operation of decrees, the Government of India has decided to introduce a Bill giving effect tentatively and, in the first instance, within a limited area to the policy which dictated the English Act of 1869, and is believed by several authorities of weight to be applicable to India.

Provisions of Bill.

32. *Sections 1 and 2.*—It is proposed that the measure shall apply in the first instance to the North-Western Provinces and Oudh, and be extendible to other Provinces, or to particular classes of debtors in other Provinces, by Local Governments with the previous sanction of the Governor General in Council.

From the opinions recorded by the Chief Commissioner and by Mr. MacEwen, the Officiating Recorder of Rangoon, on the draft Bankruptcy Bill of 1885, and by the Recorder, Judicial Commissioner and other authorities, European and Native, on the circular of 1881, there appears to be a strong feeling in Burma in favour of abolishing imprisonment for debt where the debtor has not been guilty of fraud. But it is considered desirable that the proposed Act should apply in the first instance to the territories under one Local Government, and that its effect there should be ascertained before the Act is extended to other parts of the country.

The date on which the Act is to come into force in the North-Western Provinces and Oudh is the 1st of January, 1888. If therefore the Bill is passed during the present year, decree-holders will have more than twelve months within which they may proceed against their judgment-debtors under the provisions of the Code of Civil Procedure. In England the period which elapsed between the passing and the coming into force of the Debtors Act 1869, was less than five months.

33. *Section 4.*—This section is based on section 4 of the Debtors Act, 1869, but applies only to arrest and imprisonment for default in compliance with decrees and orders of Civil and Revenue Courts. Clause (e) is specially designed to check those fraudulent alienations of property by solvent but dishonest debtors which are relied on by the opponents of any mitigation of the existing law as the main justification of imprisonment for debt.

34. *Section 5.*—This section, following the 41 & 42 Vic., c. 54, permits the Court to refuse, either absolutely or on terms, an application for the arrest or imprisonment, or for the release or discharge from arrest or imprisonment, of a defaulter who is a trustee or person acting in a fiduciary capacity and is required, as such, to pay any money which is in his possession or under his control, or any money for which he is accountable and of which he has not discharged himself.

The origin and object of this clause are stated as follows by Jessel, M. R., in *Morris v. Ingram* (L. R. 13 Ch. D. 343):—

"Then we come to the Amendment Act of 1878 which was passed to meet a special class of cases, and the history of that Act was this. An application was made before me for the imprisonment of a trustee who had been ordered to pay a sum of money. It was a very hard case, one of an unintentional breach of trust; and though the man was actually dying, I had no alternative but to make an order. Then I had various other cases before me which led me to regret that the Court had no discretion, for it not unfrequently happened that a person who came in strictness under the first class of offences * was not guilty of any moral offence. Under those circumstances I thought it would be wise and prudent that a discretion should be given to the Courts to deal with exceptional cases, but not with the intention of repealing the existing Act. Mr. Marten, being a member of the Legislature, then adopted my suggestion, and procured this Amendment Act to be passed."

* That is to say, the defaults specified in 32 & 33 Vic., c. 62, s. 1.

35. *Section 6.*—This section empowers the High Court and the Chief Controlling Revenue-authority to make rules for regulating the procedure to be followed in the Courts subordinate to them respectively in inquiries as to the liability of persons to arrest and imprisonment on the ground of fraud or contumacy.

36. *Section 7.*—This section modifies the operation of enactments authorising arrest and imprisonment for default in compliance with decrees and orders of Civil and Revenue Courts for payment of money.

Clause (a), following the Code of Civil Procedure, limits the term of imprisonment to six months, notwithstanding that section 163 of the North-Western Provinces Rent Act, 1881, authorises imprisonment in certain cases for so long a period as two years.

Clause (b) relieves the decree-holder of the liability to maintain his judgment-debtor while in prison. If imprisonment is retained, not as a mode of enforcing payment but simply as a punishment, it will hardly be possible to continue the liability. This liability existed under the old Insolvency Law in England, and the Act which imposed it was once described as giving the creditor "the power of imprisoning and tormenting his debtor at the expense of 3s. 6d. per week."* If it is abolished, great care should be taken that imprisonment is not inflicted except in cases of misconduct which deserve punishment.

* Hansard, 71, page 451.

Clause (c) requires that the defaulter, though in the civil jail, shall nevertheless be subject, as nearly as circumstances admit, to the discipline prescribed in the case of a criminal prisoner undergoing simple imprisonment. Where a person is ordered to pay a fine, the nature and term of his imprisonment will be regulated by the general law. This clause relates to the other cases in which a debtor is liable to imprisonment. Those cases, as before observed, all involve some degree of delinquency (L. R. 6 Ch. 157), and the imprisonment contemplated by the Bill, as by the English Act (L. R. 13 Ch. D. 343), is simple, that is, without hard labour. The effect of this clause will be to deprive the defaulter, as a civil prisoner, of the privilege of maintaining himself, and purchasing or receiving from private sources food, clothing, bedding, and other necessities (Act XXVI of 1870, s. 34).

Clause (d) provides that, except where the arrest or imprisonment is for default in payment of a fine, the defaulter, when once arrested or imprisoned, shall not be released from

arrest, or discharged from prison, without the order of the Court. The Court may grant the order or refuse it. If it refuses the order, the defaulter may appeal.

Clause (c) so far modifies clause (29) of section 588 of the Code of Civil Procedure as to admit of an appeal being preferred from an order for imprisonment in execution of a decree.

37. *Section 8.*—This section follows section 359 of the Code of Civil Procedure in providing that where the Court is of opinion that the defaulter has been guilty of an offence against the Indian Penal Code or any special enactment for the punishment of fraudulent debtors, it may, instead of ordering his imprisonment in the civil jail, send him to a Magistrate to be dealt with according to law.

38. *Sections 9 and 10.*—These sections contain special provisions with respect to arrest before judgment, and save proceedings taken before the Act comes into force.

39. *Section 11.*—It has been decided *In re Heareus Smith* (L. R. 2 Ex. D. 17) that the English Debtors Act of 1869 does not apply to a case in which the defaulter is a debtor to the Crown. It is proposed that the Indian Act shall have the like effect as against the Crown where a decree or order for payment of money is made in its favour by a Civil or Revenue Court, as it will have against a subject.

40. The question of giving the Courts a discretionary power to refuse an order for the arrest and imprisonment of a judgment-debtor, or at least of a female judgment-debtor, will be considered when next the Code of Civil Procedure comes under revision.

C. P. ILBERT.

The 9th June, 1886.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

(Second publication.)

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th June, 1886.—

NO. 10 OF 1886.

A Bill to declare certain allowances collectively known as Oudh Wasikas to be pensions within the meaning of the Pensions Act, 1871.

WHEREAS, on the death of Her Highness the Bahu Begam, His Highness the Nawab Vazir of Oudh delivered to the British Government a sum of money with intent that the interest accruing thereon should, in compliance with the wishes of Her Highness the Bahu Begam as expressed in a Deed of Deposit executed by her in the year 1813, be applied by the British Government to the payment of certain pensions, which pensions are known as the Amanat Wasikas;

And whereas in the year 1813 the said Government guaranteed the payment of certain pensions to persons connected with the Khas Mahal of Her Highness the Bahu Begam, which pensions are known as the Zamanat Wasikas;

And whereas in the years 1814, 1825, 1829 and 1838 loans, known respectively as the 1st, 3rd, 5th and 6th Oudh loans, were made by the Rulers of Oudh to the Hon'ble the East India Company with intent that the interest accruing thereon should be applied by the said Government to the payment of certain pensions, which pensions are known as the Loan Wasikas;

And whereas the said Government reserved to itself the right of committing the pensions to the

payment of which the Oudh loan was to be

And whereas the Amanat, Zamanat and Loan Wasikas have been regarded as pensions to which the Pensions Act, 1871, applies, and rules respecting them have been made and published under section 11 of that Act;

And whereas, since the making and publication of the rules, doubt has been expressed whether the said Wasikas are pensions within the meaning of the Pensions Act, 1871;

And whereas it is expedient to declare them to be pensions within the meaning of that Act;

It is hereby enacted as follows:—

1. This Act may be called the Oudh Wasikas Act, 1886.
2. The allowances respectively known as the Amanat Wasikas, the Zamanat Wasikas and the Loan Wasikas are, within the meaning of the Pensions Act, 1871, pensions conferred by a former Government and continued by the British Government on political considerations.
3. Notwithstanding anything in section 10 of the said Act, the Local Government may, without the consent of the holder of a pension payable out of the interest accruing on the 5th Oudh loan, order the whole or any part of the pension to be commuted on the terms referred to in the fourth article of the treaty executed with respect to that loan on the first day of March, 1829, and ratified by the Governor General in Council on the eighth day of May in the same year.

STATEMENT OF OBJECTS AND REASONS.

CERTAIN allowances, locally known as Amanat Wasikas, Zamanat Wasikas and Loan Wasikas, are paid by the British Government to the descendants of certain relatives and dependants of the Bahu Begam and the Vazirs and Kings of Oudh. Till the year 1880 no doubt was entertained that these allowances were pensions within the meaning of the Pensions Act, 1871. In that year it became desirable on financial grounds to commute one of the largest of them, and, a dispute having arisen as to the person entitled to receive the capital value of the allowance, the Government had to consider whether it could safely pay the amount under cover of the Pensions Act to the person who appeared to be best entitled. The Hon'ble the Advocate General inclined to the opinion that a Wasika was a pension within the meaning of the Act, but thought there was a good deal to be said in favour of the opposite view. As the sum involved was so very large that the Government would not have been justified in incurring any risk in disposing of it, a special Bill was introduced into the Legislative Council and passed as the Taj Mahal's Pension Act, 1881.

This step, which the Government was compelled to take for its own protection, necessarily suggested a doubt as to the applicability of the Pensions Act to Wasikas.

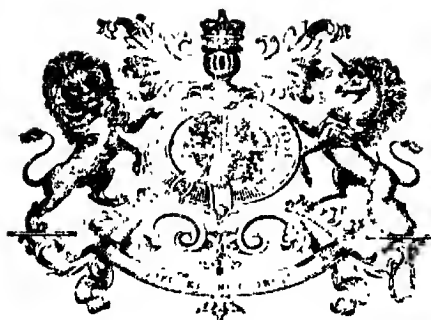
As it is expedient on political considerations that there should be no room for question as to the applicability of the Act to Wasikas, the Government has decided to introduce this Bill to remove the doubts created by the legislation of 1881.

The 9th June, 1886.

J. W. QUINTON.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 19, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART II.

Notifications by High Court, Comptroller General, &c

GAZETTE OF INDIA.

NOTICE.

The 15th March 1886.

From the 10th April next, till further notice, Parts I, IV, and V of the *Gazette of India*, and the Weather and Crop Reports, will be published at Simla. After the 3rd April, all Notifications and other matter intended for publication in those Parts, should be addressed to the Officiating Publisher, at Simla.

	R	s.	p.
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Postage on single copies varies according to weight.			

Parts IV and V of the *Gazette of India*, containing the Acts and Bills of the Legislative Council, may be subscribed for separately from the other Parts of the *Gazette*. The annual subscription for the two Parts is **Rs 5** per annum, payable in advance. When sent by post, **Rs 2-8** per annum additional will be charged for postage.

By an order of Government, all subscriptions must be paid *in advance*.

Applications for the supply of the *Gazette* on the *public service* should be addressed to the Home Department.

Complaints regarding non-receipt of any number of the *Gazette* should be forwarded within a week after the day on which it is due.

Attention is invited to the Circular Memo. of the Government of India, Home Department, of February 1870, directing that all Notifications or other matter intended for insertion in the *Gazette of India* should be delivered at the Publisher's Office not later than 2 P.M. on Friday afternoon, and that matter sent after that hour must be certified to be extremely urgent in order to ensure its appearance in the next day's *Gazette*.

Matter intended for publication in the Supplement should reach the Press not later than Thursday.

E. J. DEAN,

Publisher, Gazette of India

BANK OF BENGAL.

Calcutta, the 17th June 1886

Notice is hereby given that the Transfer Books of the Bank will be closed from Thursday, the 1st, to Thursday, the 15th proximo, both days inclusive.

By order of the Directors,

W. H. CRUICKSHANK,

Offg. Secretary & Treasurer.

Statement of Government Promissory Notes enfaced for payment of Interest in London, under deduction of amount re-transferred to India, and outstanding in the Books of the Bank of Bengal on the 15th June 1886.

PARTICULARS.	3½ PER CENT. TRANSFER LOAN OF 1853-54.	4 PER CENT. LOANS					9½ PER CENT. LOANS				TRANSFER LOAN OF 1879, SEVEN SHILLINGS PER CENT. PORTION.	5 PER CENT. LOAN OF 1856-57.	GRAND TOTAL.
		OF 1835-36	OF 1847-48	OF 1854-55	Transfer of 1865.	Reduced 4 per cent. loan of 1879.	TOTAL.	OF 1870.	OF 1878.	TRANSFER LOAN OF 1879, 4½ PER CENT. PORTION.			
Balance of 31st May 1886	54,100	13,73,653	27,37,200	2,28,11,600	91,73,200	2,63,23,000	8,53,84,253	43,99,700	77,03,200	9,71,13,900	1,33,800	32,200	19,48,21,153
<i>Add—</i>													
Amount enfaced at Madras between 1st and 15th June 1886	...	...	...	...	...	...	...	...	...	...	...	...	...
Amount enfaced at Bombay between 1st and 15th June 1886	...	...	4,500	...	...	8,000	33,500	...	9,000	4,500	...	...	47,000
Amount enfaced at Calcutta between 1st and 15th June 1886	...	...	600	15,700	...	39,300	56,400	...	5,500	2,47,500	...	...	3,09,400
<i>Deduct—</i>													
Amount written off in the London Registers	...	13,73,653	27,37,200	2,28,17,300	91,73,200	2,63,83,300	8,54,74,153	43,99,700	77,17,700	9,73,65,900	1,33,800	32,200	19,51,77,553
Balance on 15th June 1886	54,100	...	14,400	99,800	27,800	1,66,800	3,31,200	...	...	35,000	...	...	3,66,200
	54,100	13,73,653	27,22,800	2,27,17,500	91,45,400	2,62,16,500	8,51,42,953	43,99,700	77,17,700	9,73,30,900	1,33,800	32,200	19,48,11,353

NOTE.—From 9th June 1897 to 15th Apl. 1896 enfaced from India 5,232 lakhs, re-transferred from London 4,657 lakhs.

" 16th Apl. 1886 to 30th Apl. "	" 7 "	" 5 "
" 1st May " to 15th May "	" 5 "	" 9 "
" 16th " " to 31st " "	" 4 "	" 7 "
" 1st June " to 15th June "	" 3 "	" 3 "

5,271 lakhs.
4,681 "

Balance against India 500 lakhs.

PUBLIC DEBT OFFICE,
BANK OF BENGAL;
Calcutta, 16th June 1886.

W. D. CRUICKSHANK,
Offg. Secretary and Treasurer.

SURVEY OF INDIA.**NOTIFICATIONS.***Simla, the 11th June 1886.*

No. 567.—Mr. W. C. G. Barckley, Assistant Surveyor, 1st Grade, Survey of India Department, is granted privilege leave for two months and twenty-two days, under Section 138, Chapter X, of the Civil Leave Code, with effect from 10th July 1886.

No. 568.—Mr. E. Graham, Assistant Surveyor, 1st Grade, Survey of India Department, is granted privilege leave for two months and twenty-two days, under Section 138, Chapter X, of the Civil Leave Code, with effect from 10th July 1886.

H. R. THUILLIER, *Lieut.-Colonel, R.E.,*
Offg. Surveyor General of India.

SURGEON-GENERAL WITH THE GOVERNMENT OF INDIA.**NOTIFICATION.***Simla, the 25th May 1886.*

No. 14.—The services of the undermentioned 3rd Grade Assistant Surgeons of the Imperial List are placed temporarily at the disposal of the Chief Commissioner, Central Provinces :—

Third Grade Assistant Surgeon Radhica Prosad Sinha.

Third Grade Assistant Surgeon Upendra Nath Chatterjea.

B. SIMPSON, M.D.,
Surgeon-General with the Govt. of India.

AGENT TO THE GOVERNOR GENERAL FOR CENTRAL INDIA.**NOTIFICATIONS.***Indore Residency, the 10th June 1886.*

No. 2237.—Pundit Balaprasad, Assistant Superintendent of Police, Rajputana-Malwa Railway, Indore Section, returned from the three months' privilege leave granted him in this Office Notification No. 245 A., dated 21st February 1886, and resumed charge of his office from Mr. R. Vital, on the forenoon of the 28th May 1886.

The unexpired portion of his leave, *vis.*, four days, is hereby cancelled.

The 11th June 1886.

No. 2272.—Colonel M. G. Gerard, C. B., returned from the privilege leave granted him

in this Office Notification No. 828 of the 11th March 1886, and resumed charge of his duties as Political Assistant, Goona, in addition to his other duties from Captain G. E. Money, on the forenoon of the 5th June 1886.

By Order,

F. L. PETRE,

1st Asst. Agent to the Govr. Genl.
for Central India.

CHIEF COMMISSIONER OF AJMERE-MERWARA.**NOTIFICATIONS.***Mount Abu, the 10th June 1886.*

No. 594-331.—Lala Balmakund Dass, Tehsildar of Ajmere, sub. *pro tem.*, is invested with the powers of a Magistrate of the 2nd Class as defined in Section 32, Act X of 1882 (Criminal Procedure Code), with effect from the 1st June 1886.

No. 597-190 //—Mr. H. E. J. Fitzpatrick, Extra Assistant Commissioner and Treasury Officer, Ajmere, is granted privilege leave for two months and nine days, with effect from the 2nd July 1886, or such subsequent date as he may avail himself of the same.

No. 598-190 //—Pundit Jia Lal, 1st Clerk of the Commissioner's Office, Ajmere, is appointed to officiate as Extra Assistant Commissioner and Treasury Officer during the absence on privilege leave of Mr. Fitzpatrick.

Pundit Jia Lal is invested, with effect from the date of assuming charge, with the powers of a Magistrate of the 2nd Class, as described in Section 32, Act X of 1882 (Criminal Procedure Code), and is further especially empowered under the last clause of the said section to pass sentence of whipping.

By Order,

HUGH DALY,

for 1st Asst. to the Agent to the Govr Genl.

RESIDENT IN MYSORE.**NOTIFICATION.***Bangalore, the 10th June 1886.*

No. 1686.—In supersession of the Notification of the Resident in Mysore, No. 7, dated 31st May 1884, the Resident in Mysore is pleased, under the provision of Section 220 A of the Indian Companies Act (VI of 1882), to appoint the Assistant to the Resident in Mysore for the

time being to be Registrar of Companies for the Civil and Military Station of Bangalore, with effect from 1st July 1886.

By Order,

E. A. FRASER, *Major,*

Assistant to the Resident.

DIRECTOR GENERAL OF RAILWAYS.

NOTIFICATIONS.—ESTABLISHMENT.

Simla, the 8th June 1886.

No. 50.—With reference to Public Works Department Notification No. 142, dated 2nd June 1886, Mr. C. S. Harris, Class IV of the Superior Revenue Establishment of State Railways, Stores Department, is posted to the Sind-Sagar State Railway

No. 51.—Mr. H. G. S. Savory, Assistant Engineer, 1st Grade, is transferred, in the interests of the public service, from the Bolan Railway to the Sind-Pishin State Railway, Northern Section.

No. 52.—Mr. W. Giles, Assistant Engineer, 1st Grade, is transferred in the interests of the public service from the Nagpur-Bengal Railway to the Sind-Pishin State Railway, Northern Section.

The 12th June 1886.

No. 53.—Mr. V. E. DeBroe, Assistant Engineer, 1st Grade, is transferred, in the interests of the public service, from the Ferozepore Bridge Works to the North-Western Railway.

No. 54.—With reference to Public Works Department Notification No. 130, dated 14th May 1886, the undermentioned officers are posted to the Sind-Pishin State Railway, Northern Section:—

Mr. A. C. C. Rogers, Executive Engineer, 3rd Grade.

Babu Bhobhun Mohun Bose, Executive Engineer, 4th Grade, sub. *pro tem*.

Babu Kali Podu Sen, Executive Engineer, 4th Grade, sub. *pro tem*.

F. S. STANTON, *Colonel, R.E.,*

Director General of Railways.

Statement of Silver Balance in the Calcutta Mint for the week ending 9th June 1886.

	R	R
Value of silver held in the Mint on account of the Currency Department on the evening of the 2nd June 1886	1,99,089	
Value of Government silver in the Mint on the same date	62,34,264	64,33,353
ADD—		
Silver received by the Mint during the week on account of the Currency Department	26	
Ditto ditto Government	1,804	1,920
DEDUCT—		
New coin paid to Reserve Treasury during the week	5,22,358	64,35,273
Petty items issued for miscellaneous purposes	...	5,22,358
Balance on the evening of the 9th June 1886	...	59,12,915
The Balance comprises—		
Silver held on account of the Currency Department	1,99,115	
Ditto ditto Government	57,13,800	59,12,915
There is in addition awaiting assay—		
Bullion belonging to Private Individuals	39,101	
Ditto ditto Government	...	39,101

A. W. BAIRD, *Major, R.E.,*
Offg. Master of the Mint.

CALCUTTA MINT.
The 10th June 1886.

Statement of Silver Balance in the Calcutta Mint for the week ending 16th June 1886.

	R	R
Value of silver held in the Mint on account of the Currency Department on the evening of the 9th June 1886	1,99,115	
Value of Government silver in the Mint on the same date	57,13,800	59,12,915
ADD—		
Silver received by the Mint during the week on account of the Currency Department	34,780	
Ditto ditto Government	9,353	44,133
DEDUCT—		
New coin paid to Reserve Treasury during the week	6,00,000	59,57,048
Petty items issued for miscellaneous purposes	...	6,00,000
Balance on the evening of the 16th June 1886	...	53,57,048
The Balance comprises—		
Silver held on account of the Currency Department	2,33,895	
Ditto ditto Government	51,23,153	53,57,048
There is in addition awaiting assay—		
Bullion belonging to Private Individuals	3,34,162	
Ditto ditto Government	...	3,34,162

A. W. BAIRD, *Major, R.E.,*
Offg. Master of the Mint.

CALCUTTA MINT,
The 17th June 1886

By Order of the Directors,
W. D. CRUICKSHANK,
Offg. Secretary & Treasurer.

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NOTES WHOLLY LOST OR DESTROYED.			
Regr. No.	No. of Notes.	Value.	Name of Claimant.
1886.		R	
W19	S 3—30106	50	Nusserwanji Rustanji Knt-hoke, Bombay.
W20	S 11—11432	100	Mr. A. Maidment, Kanara.
	M 04—76147	100	
	M 54—53023	50	
	" —73239	50	
W21	M 76—89092	1,000	Mooledina Moomun, Bombay.
	" —92137	1,000	
	" —95191	1,000	
	" —93320	1,000	
	" —80712	1,000	
	" —90457	1,000	
	" —92149	1,000	
	" —84072	1,000	
	" —92148	1,000	
	" —88270	1,000	
	" —91473	1,000	
	" —56184	1,000	
W22	M 91—80390	100	Mr. H. W. J. Bagnell, Thana.
W23	M 50—45023	50	Krishnaji Wasudeo Barve, Thana.

BOMBAY,
The 15th June 1886.

R. A. STERNDALE,
Asst. Acct. Genl., Paper Currency Dept.

NOT WHOLLY LOST OR DESTROYED.			
Regt. No.	No. of Note.	Value.	Name of Claimant.
5	B 93-15387	100	Messrs. T. A. Taylor & Co., Madras.

FORT ST. GEORGE,
The 10th June 1886

C. HALL,
Chief Superintendent,
In charge of Paper Currency Dept.

NOTIFICATIONS.
Simla, the 19th June 1886.

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The Gazette of India

EXTRAORDINARY.

Published by Authority

SIMLA, MONDAY, JUNE 21, 1886.

FOREIGN DEPARTMENT.

NOTIFICATION.

No. 2091 I.

Simla, the 21st June 1886.

The Governor-General in Council has received with profound regret the intelligence of the death, on the 20th instant, of His Highness Mukhtar-ul-Mulk Azim-ul-Iktidar Rafi-ush-Shan Wala Shikoh Mohtasham-i-Dauran Umdat-ul-Umara Maharaj-Adhiraj Alijah Hisam-us-Saltanat MAHARAJA JAYAJI RAO SINDHIA Bahadur Srinath Mansur-i-Zaman Fidwi-i-Ilaqrat-i-Malika i-Muazzama-i-Rafi-ud-Darja-i-Inglistan, OF GWALIOR, Councillor of the Empress, Honorary General in Her Majesty's Army, Knight Grand Cross of the Most Honorable Order of the Bath, Knight Grand Commander of the Most Exalted Order of the Star of India, and Companion of the Order of the Indian Empire.

During the forty-three years which have elapsed since His Highness succeeded to the rule of the Gwalior State he has maintained a foremost place among the loyal feudatories of the Crown. His Highness received only a few months ago a crowning proof of the trust reposed in him by Her Majesty's Government; and the Governor-General in Council grieves to think that he has lived so short a time to enjoy the fulfilment of his long-cherished desire.

By order of the Governor-General in Council,

H. M. DURAND,

Secretary to the Government of India.



The Gazette of India

EXTRAORDINARY.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 19, 1886.

FOREIGN DEPARTMENT.

NOTIFICATION.

No. 2089 I.

Simla, the 19th June, 1886.

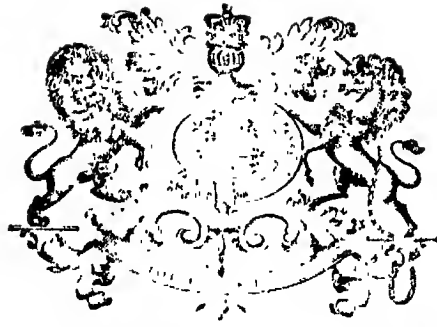
The Governor-General in Council announces with deep regret the death, on the 17th instant, of HIS HIGHNESS MAHARAJ-ADHIRAJ RAJ RAJESHWAR SAWAI TUKAJI RAO HOIKAR BAHADUR, of Indore, Knight Grand Commander of the Most Exalted Order of the Star of India, Companion of the Order of the Indian Empire, Councillor of the Empress.

His Highness succeeded to the rule of the Indore State more than forty years ago, and the Governor-General in Council feels that the Indian Empire has lost in him one of the most capable and experienced of its Native Chiefs.

By order of the Governor-General in Council,

H. M. DURAND,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

No. 26.}

SIMLA, SATURDAY, JUNE 20, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

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PART II.—Notifications by High Court, Comptroller General, Administrator General, Paper Currency Dept., Presidency Pay Master, Money Order Department, Mint Master, Secretary and Treasurer, Bank of Bengal, Superintendent of Government Printing, and other Government Officers; Postal, Telegraph, and Commissariat Notices.

PART III.—Advertisements and Notices by private individuals and Corporations.

PART IV.—Acts of the Governor-General's Council assented to by the Governor-General:—

The North-Western Provinces Port Act, 1886.

The North-Western Provinces Land Revenue Act, 1886.

PART V.—Bills introduced into the Council of the Governor-General for making Laws and Regulations, or published under Royal Warrant:—

The Oudh Rent Bill.

The Lathi Measure Bill.

The Deccan Bill.

The Oudh Wastelands Bill.

The Punjab Land Revenue Bill.

SUPPLEMENT No. 26.

PART I.

Government of India Notifications, Appointments, Promotions, &c.

HOME DEPARTMENT.

NOTIFICATIONS.—ESTABLISHMENTS.

Simla, the 21st June, 1886.

No. 205.—*Appointment.*—Lieutenant J. J. Cronin, 7th Bengal Infantry, to be an Assistant Commissioner of the 4th Grade in Burma.

ECCLESIASTICAL.

The 23rd June, 1886.

No. 177.—The Reverend A. G. A. Roberts, M.A., a Junior Chaplain on the Bengal Ecclesiastical Establishment, to be a Senior Chaplain, with effect from the 10th instant.

No. 170.—*Erratum.*—In Home Department Notification No. 105, dated the 16th April, 1886, for "25th February, 1886," read "24th February, 1886."

PATENTS.

The 21st June, 1886.

No. 743.—Specifications of the undermentioned inventions have been filed, under the provisions of Act XV of 1859, in the Office of

the Secretary to the Government of India in the Home Department. Copies have been sent to one of the Secretaries to each of the Governments of Bengal, Fort St. George, Bombay, and the North-Western Provinces. A copy of every specification is open to public inspection, at all reasonable hours, at the Office of the Secretary to the Government of India in the Home Department of the Presidency, upon payment of a fee of one Rupee. A certified copy of any specification will be given to any person requiring the same on payment of the expense of copying.

No. 170 of 1885.—Charles Mackey Taylor and Anthony Percival Turner, both of London, England, for improvements in bottle stoppers.

No. 193 of 1885.—Richard Morris, of Blackheath, in the County of Kent, England, for an improvement in the mode of ammunition and the appliances for adapting fire arms for its use.

FORESTS.

The 19th June, 1886.

No. 513 F.—Consequent on the grant of furlough to Mr. G. Greig, Conservator of Forests of the 1st Grade, in charge of the Central Circle in the North-Western Provinces and Oudh, the following temporary promotions are made, with

effect from the date on which Mr. Greig may avail himself of the leave in question —

Captain F. S. Wood, Conservator of Forests, 2nd Grade, Oudh Circle, North-Western Provinces and Oudh—to officiate in the 1st Grade of Conservators.

Mr. A. I. Home, Conservator of Forests, 3rd Grade, Bengal—to officiate in the 2nd Grade of Conservators.

Mr. C. Bagshawe, Deputy Conservator of Forests, 2nd Grade, North-Western Provinces and Oudh—to officiate in the 3rd Grade of Conservators and to have charge of the Central Circle in the North-Western Provinces and Oudh.

The 24th June, 1886.

No. 534 F.—Mr. R. H. M. Ellis, Deputy Conservator of Forests of the 2nd Grade in Bengal, is appointed to officiate in the 1st Grade of Deputy Conservators during the absence on privilege leave for two months and twenty days of Mr. W. R. J. Breton, Deputy Conservator of the 1st Grade in the North-Western Provinces and Oudh, with effect from the 20th June 1886, or the subsequent date on which Mr. Breton may avail himself of the leave in question.

A. P. MacDONNELL,

Offg. Secretary to the Government of India

FOREIGN DEPARTMENT.

NOTIFICATIONS.

Simla, the 24th June, 1886.

No. 1249 G.—The following promotions are made in the Berar Commission —

Mr. H. E. J. Fitzpatrick, Extra Assistant Commissioner of the 4th Class, to be an Extra Assistant Commissioner of the 3rd Class, but to continue to be employed as Extra Assistant Commissioner at Ajmere.

Munshi Ajudhia Pershad, Extra Assistant Commissioner of the 4th Class, to be an Extra Assistant Commissioner of the 3rd Class, *vice* Mr. H. E. J. Fitzpatrick, seconded.

The 16th June, 1886.

No. 2089 I.—The Governor-General in Council announces with deep regret the death, on the 17th instant, of His Highness MAHARAJ-ADHIRAJ RAJ RAJESHWAR SAWAI TUKARAJ RAO HOLKAR BAHADUR, of Indore, Knight Grand Commander of the Most Exalted Order of the Star of India, Companion of the Order of the Indian Empire, Councillor of the Empress.

His Highness succeeded to the rule of the Indore State more than forty years ago, and the Governor-General in Council feels that the Indian Empire has lost in him one of the most capable and experienced of its Native Chiefs.

The 21st June, 1886.

No. 2001 I.—The Governor-General in Council has received with profound regret the intelligence of the death, on the 20th instant, of His Highness Mukhtar-ul-Mulk Azim-ul-Iktidar Rah-nsh-Shan Wala Sikoh Mohtasham-i-Dauran Umdat-ul-Umara Maharaj-Adhiraj Alijah Hisam-us-Saltanat MAHARAJA JAYAJI RAO SINDHIA Bahadur Srinath Mansur-i-Zaman Fidwi-i-Hazrat-i-Madika-i-Muazzama-i-Rah-ud-Darja-i-Inglistan, of GWALIOR, Councillor of the Empress, Honorary General in Her Majesty's Army, Knight Grand Cross of the Most Honorable Order of the Bath, Knight Grand Commander of the Most Exalted Order of the Star of India, and Companion of the Order of the Indian Empire.

During the forty-three years which have elapsed since His Highness succeeded to the rule of the Gwalior State he has maintained a foremost place among the loyal feudatories of the Crown. His Highness received only a few months ago a crowning proof of the trust reposed in him by Her Majesty's Government, and the Governor-General in Council grieves to think that he has lived so short a time to enjoy the fulfilment of his long-cherished desire.

The 21st June, 1886.

No. 2161 I.—The following sub-section is added to Section 8 of the Berar Patels and Patwaris Law published in Foreign Department Notification, No. 10 I., dated the 1st January, 1886:—

(6) If a person specified in sub-section (1), sub-section (2), or sub-section (3) of this section fails to appoint an agent as empowered by the sub-section, the Deputy Commissioner may appoint the agent which that person is so empowered to appoint.

No. 2165 I.—The Governor-General in Council is pleased to extend Act II of 1886 (*an Act for imposing a tax on income derived from sources other than agriculture*) to the Civil and Military Station of Bangalore, subject to the modifications hereinafter set forth:—

- (1) For "British India," wherever the phrase occurs, *read* "the Civil and Military Station of Bangalore."
- (2) In Sections 22 and 43, for "India," *read* "the Civil and Military Station of Bangalore."
- (3) In Section 30 (1), for "any part of the territories administered by the Local Government to which he is subordinate," and, in Section 38 (1), for "the territories subject to that Government," *read* "the Civil and Military Station of Bangalore."
- (4) For "a Local Government," and "the Local Government," wherever those phrases occur, *read* "the Resident in Mysore."
- (5) In Sections 27 and 34 (2), for "the Commissioner of the Division," in Section 28

(in both places in which the word occurs), *for* "Commissioner," and, in Section 40, *for* "a Commissioner of Division," *read* "the Assistant to the Resident."

(6) In Section 1, *for* sub-section (1) *read* "(1) This Act extends to the Civil and Military Station of Bangalore," and *for* "the passing of this Act" in sub-section (3) *read* "the date of this notification."

(7) In Section 3, *for* clause (9), *read* "(9) 'Collector' means the Collector of the Civil and Military Station of Bangalore."

(8) In Section 23, third clause, *insert* "or" after "receiver."

(9) *Omit* the following —

(a) Section 2 and the first Schedule

(b) in Section 3—

"body of port commissioners" in clause (1);

clause (5), from and including "and includes";

"a Presidency Magistrate or" in clause (6)

(c) in Section 18—

clause (c) of sub-section (1);

"or clause (c)" in sub-sections (2) and (3); "or served" in sub-section (3)

(d) in Section 22, "the Courts of Wards, the Administrators General of Bengal, Madras and Bombay, and the Official Trustees"

(e) in Section 23—

"a Court of Wards, an Administrator General or an Official Trustee" in the second clause.

"or Court," "or its," and "Court of Wards, Administrator General or Official Trustee," in the third clause,

(f) in Section 32, clause (c), "district or districts";

(g) in Section 43, "or a Court of Wards, Administrator General or Official Trustee"

(h) Sections 47 and 48

(i) in the second Schedule, Part 1, Article 2.

(10) For the period ending the 31st day of March, 1887, the Act shall be read as though the dates specified in the second column of the following table were substituted for those specified against them in the first column:

1	2
Thirty-first day of March.	Thirtieth day of June.
First day of April, 1886.	First day of July, 1886.
Fifteenth day of April.	Fifteenth day of July.
First day of June.	First day of September.

The 24th June, 1886.

No. 1356 E.—Lieutenant H. Daly, Political Assistant of the 2nd Class, sub. *pro tem.*, and Assistant to the Governor-General's Agent in Rajputana, is appointed to special duty in Upper Burma, with effect from date of joining.

H. M. DURAND,

Secretary to the Government of India.

DEPARTMENT OF FINANCE AND COMMERCE.

NOTIFICATIONS.

ACCOUNTS AND FINANCE.

Simla, the 21st June, 1886.

No. 1516.—*Monthly Preliminary Statement of Receipts and Payments at Civil Treasuries in India.*
May 1886. (Lakhs of Rupees.)

	IN MAY		TO END OF MAY		WHOLE YEAR.	
	1886-87.	1885-86.	1886-87.	1885-86.	Budget, 1886-87.	Actuals, Preliminary 1885-86.
[For the explanation of these heads, see <i>Gazette of India</i> , dated 22nd December, 1883, Part I, page 497.]						
Civil Revenue.						
Land Revenue (including Land Revenue due to Irrigation)	2,07	2,44	3,68	4,14	23,32	23,15
Opium	67	00	1,50	1,31	9,23	8,04
Salt	65	63	1,22	1,15	6,30	6,34
Stamps	30	31	03	05	3,00	3,60
Excise	33	32	00	07	4,14	4,15
Provincial Rates	31	34	51	50	2,91	2,98
Customs	10	0	23	22	1,17	1,20
Assessed Taxes	5	12	8	10	1,34	50
Forest (Madras and Bombay only)	2	2	4	4	42	43
Registration	3	3	5	5	31	31
Tributes from Native States	3	2	8	8	71	70
Other Civil Revenue	21	20	40	40	3,20	3,13
TOTAL CIVIL REVENUE DIRECTLY BROUGHT TO ACCOUNT: GROSS	4,77	5,18	9,20	9,61	50,83	55,40
Civil Expenditure.						
Interest on Ordinary Debt and that on Productive Public Works	42	40	74	88	3,82	3,81
Opium	60	75	1,57	1,82	2,05	3,05
Other Civil Expenditure	1,51	1,72	3,11	3,38	22,45	20,99
TOTAL CIVIL EXPENDITURE DIRECTLY BROUGHT TO ACCOUNT: GROSS	2,53	2,96	5,42	6,08	23,92	27,85
Extraordinary Receipts . . . . .			...	...	...	+ 2,17
Receipts into Civil Treasuries from, and issues from those Treasuries to, the following Non-Civil Departments.						
[The figures comprising Revenue, Expenditure, and Debt and Remittance Transactions.]						
Post Office (Net: + Receipts more, — Receipts less, than issues)	+ 24	— 3	+ 62	— 3	+ 40	+ 91
Forest, Telegraph, Marine (Net as above)	— 1	— 8	— 6	— 17	— 1	— 32
Guaranteed and Subsidized Railways (Net as above)	+ 60	+ 59	+ 1,12	+ 1,16	+ 4,97	+ 4,93
Do. Repayment of surplus profits, &c. . . . .		...	...	...	— 42	— 47
Military Receipts	+ 6	+ 6	+ 13	+ 13	+ 83	+ 1,13
Military Issues	— 1,09	— 1,44	— 2,20	— 2,98	— 12,99	— 14,78
Public Works Department—						
State Railways Receipts	+ 44	+ 31	+ 61	+ 67	} — 2,35	+ 4,28
State Railways Issues	— 6,3	— 57	— 1,35	— 1,11		— 5,97
East Indian Railway Receipts	+ 43	+ 42	+ 83	+ 81	} + 2,90	+ 4,18
East Indian Railway Issues	— 20	— 14	— 28	— 23		— 1,35
Ordinary Branches Receipts	+ 9	+ 9	+ 32	+ 18	} — 5,44	+ 1,70
Ordinary Branches Issues	— 47	— 59	— 1,11	— 1,35		— 7,58
TOTAL NON-CIVIL DEPARTMENTS	— 56	— 1,38	— 1,97	— 2,92	— 13,02	— 13,29
Civil Debt and Remittance Transactions.						
Permanent Debt (Net: + Receipts more, — Receipts less, than payments) . . . . .	..	— 2	...	— 2	— 2	— 48
Mint Certificates and Bullion Advance (Net as above)	+ 5	+ 21	+ 2	+ 37	...	+ 17
Exchange on Remittance Account	— 6	— 10	— 40	— 35	— 4,55	— 3,34
Council Bills paid (including Telegraphic) at Rs. 10 per £	— 56	— 60	— 1,74	— 2,38	— 13,33	— 11,16
Other Debt heads (Net as above)	— 17	+ 22	— 70	+ 18	+ 1,23	— 1,50
TOTAL DEBT AND REMITTANCE TRANSACTIONS	— 74	— 38	— 2,88	— 2,20	— 16,67	— 10,31
GRAND TOTAL RECEIPTS AND ISSUES	+ 94	+ 46	— 17	— 1,57	— 1,78	+ 21
Opening Cash Balance in Treasuries and Presidency Banks	11,64	10,51	12,5	12,54	12,40	12,54
Closing Cash Balance in Treasuries and Presidency Banks	12,58	10,97	12,58	10,97	10,62	12,75

LEAVE AND APPOINTMENTS.

The 24th June, 1886.

No. 1582.—Mr. H. Farrer, having been appointed to be Post Master-General, Madras, received charge of that office from Mr. S. Sullivan before noon on the 15th June, 1886.

The 25th June, 1886.

No. 1585.—Surgeon F. F. MacCartie, M.B., having been appointed a Probationer in the Assay Department, Bombay Mint, joined his appointment after noon on the 18th June, 1886.

No. 1604.—Surgeon H. P. Yeld, officiating Deputy Assay Master, Bombay Mint, was confirmed in that appointment from the 29th May, 1886.

CODES.

*The 25th June, 1886.***No. 1602.**

CIVIL PENSION CODE.

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Section 88.

Add the following under Rule (c) to this Section —

"All officers in the Punjab transferred before the 1st July, 1886, to service under District Boards constituted under Act XX of 1883."

SEPARATE REVENUE.

STAMPS,
NON-JUDICIAL,
AMENDMENTS, &c.

The 25th June, 1886.

No. 1611.—In exercise of the powers conferred by Sections 9 and 56 of the Indian Stamp Act, 1879, the Governor-General in Council directs that the following shall be added to Rule 9 (g) of the Rules promulgated in this Department Notification No. 1233, dated the 31st March, 1882 —

"and the Hazur Deputy Collector, Karachi, when the Collector is absent from Headquarters —"

STAMPS,
NON-JUDICIAL,
AMENDMENTS, &c.

The 25th June, 1886.

No. 1610.—*Erratum.*—In Line 4 of this Department Notification No. 590, dated the 5th May, 1886, for "4043," read "4043."

STATISTICS AND COMMERCE.

COMMERCE AND TRADE,
MERCHANT SHIPPING.

The 25th June, 1886.

No. 1572.—Under the provisions of Section 61 of Act VII of 1880, the Governor-General in Council is pleased to fix the following rates of payment for the subsistence and passage of distressed seamen and apprentices who are sent on board a British ship under Section 57 of the said Act, and are in excess of the number wanted to make up the complement of the crew:—

- (a) In the case of lascars—for each man, six annas daily if the ship is a sailing vessel, and twelve annas daily if she is a steam-ship.
- (b) In the case of Europeans and other seamen who live as Europeans—for each man, not being a master, one shilling and six pence daily, and for a master two shillings daily, if the ship is a sailing vessel; and for each man, including a master, three shillings daily if the ship is a steam-ship.

No. 1574.—In exercise of the powers conferred by Sections 58 and 67 of the Indian Merchant Shipping Act, 1880, the Governor-General in Council is pleased to make the following rules regarding the relief of distressed seamen or apprentices in Bengal:—

Relief of distressed seamen

In these rules the term "distressed seamen" includes—

- (a) all seamen and apprentices being native Indian subjects of Her Majesty who have been shipwrecked, discharged, or left behind at any place in British India,

whether from any British ship employed in the merchant service, or from any of Her Majesty's ships, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power, or to the subject of any foreign State, and who are in distress in any such place;

- (b) all seamen and apprentices not being native Indian subjects who have been shipwrecked, discharged, or left behind at any place in British India from any British ship registered in British India, and who are in distress in any such place.

2. In taking charge of distressed seamen, the local authority will provide them with subsistence and clothing, as their necessities may require, but upon the most reasonable terms possible, and no more expensive clothing should be supplied to an officer than to a common seaman. Beds and bedding should not be supplied except under special circumstances, and the value of clothing should not exceed Rs. 10 for each person. In any case of unusual expense, when the local authority considers it absolutely necessary to deviate from the foregoing rules, or to provide relief for a longer period than one month, a statement of the exceptional circumstances which necessitated the further outlay is to accompany his accounts when transmitted for audit. Money payments to the seamen themselves for purposes of relief must be avoided as far as practicable.

3. In all cases to which Section 62 of the Act applies, a report should be submitted by the local authority to the Government, in order to admit of the seaman's wages (if any are due) and the expenses incurred in his behalf being recovered from the master or owner or other person liable under Section 63 of the Act.

Conveyance home of distressed seamen.

4. Distressed seamen who are in receipt of relief are to be sent home by the earliest available opportunity, and British vessels requiring men to make up their complement should be preferred in order to admit of the seamen earning wages while being so sent; but if no such vessel can be found, and if there is no immediate prospect of any such vessel requiring men, they should be sent as supernumeraries on board the British vessels (whether registered in British India or not) that may be in the port at the time, and bound to their homes, or to ports near their homes, as the case may be; provided, however, that no ship be required to convey more than one supernumerary to every fifty tons of her registered tonnage. Distressed seamen who refuse to work, if able, for their passage home, cease to be entitled to further relief under these rules.

5. The local authority will enforce upon the agreement of the British ship, on board which distressed seamen are sent under Section 53 or Section 57 of the Act, the name of each man sent on board, and the day on which he was sent on board. He will also, in the case of a distressed seaman sent on board under Section 57, fill up, sign, and deliver to the master an order with certificate in Form A for the seaman's conveyance.

6. Whenever there are no British merchant vessels to which distressed seamen can be allotted, and the local authority thinks it desirable, in order to avoid expense, to engage a passage for them in foreign merchant vessels, he may do so on the best terms he can obtain. He should avoid, if practicable, making any payment beforehand for such passage, but should report the terms to the Government, and direct the master to apply for payment to the shipping master at the port to which the vessel is bound.

A.

Form of Order for the conveyance of distressed seamen under Rule 5 of the Rules passed by Government under Sections 58 and 67, Act VII of 1880.

[illegible]

No.

To
The Master of the ship

Pursuant to the Indian Merchant Shipping Act, 1880, Sections 56 and 57,¹ you are hereby required to receive on board your vessel, and convey to _____, the seaman herein named.

For the subsistence of such as are supernumeraries over and above the number of the crew with which the vessel commenced her voyage, you will be paid at the rate of _____ per man per diem on presentation of this order, and on your daily making declaration as per reverse. Dated at _____ this _____ day of _____ 18 _____

(S1.)

Local Authority

Declaration to be made before the local authority at the port to which the seamen are ordered to be conveyed.

Particulars of ship to which the distressed seamen are conveyed.	Names of seamen received on board.	Date when subsistence on board commenced.	If loaded, where, if not loaded, cause to be stated.	Date when landed or disposed of.	Number of days during which subsistence was afforded.
Name					
Official No.					
Tonnage					
Number of crew on outward voyage.					
Number of crew on homeward voyage.					
Total number of days					

I, _____, master of the abovenamed ship, do solemnly and sincerely declare that the seamen above referred to were afforded subsistence by me for the period stated, during the whole of which time I had my full complement of men, excepting _____) exclusive of the aforesaid seamen, and that the above statements are correct.

Declared before me

this _____ day of _____ 18 _____.

Signature of the Local Authority

Master's signature.

Master's address:

D. M. BARBOUR.

Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 25th June, 1886.

APPOINTMENTS.

No. 409.—HYDERABAD CONTINGENT—

Colonel T. H. W. v. Commandant 3rd Infantry, Hyderabad Contingent, to continue as Commandant of the Hyderabad Contingent, with the temporary rank of Brigadier-General, *vice* Brigadier-General J. W. McQueen, C.B., Bengal S. C., appointed to officiate as Commandant of the Punjab Frontier Force. Dated 10th June, 1886.

No. 410.—NATIVE ARMY—

2nd Battalion, 4th Goorpha Regiment.

The following direct appointment is made, with effect from date of joining —

Shérú Thápa to be Jemadar, on probation.

No. 411.—PUNJAB FRONTIER FORCE—

Brigadier-General J. W. McQueen, C.B., Bengal S. C., Aide-de-Camp to the Queen, Commandant, Hyderabad Contingent, to officiate as Commandant of the Punjab Frontier Force, *vice* Brigadier-General Sir C. M. MacGregor, K.C.B., C.S.I., C.I.E., on furlough. Dated 16th June, 1886.

No. 412.—STAFF CORPS—

The undermentioned officers are admitted to the Bengal Staff Corps, with effect from the dates specified, subject to the confirmation of the Secretary of State for India —

Lieutenant William Adam Cuppige, Liverpool Regiment, Wing Officer, 5th Bengal Infantry, — 17th October, 1884.

Lieutenant John Denis Perkins, Liverpool Regiment, officiating Squadron Officer, 1st Bengal Cavalry, — 19th November, 1884.

Lieutenant Colonel Davis, Manchester Regiment, Squadron Officer, 1st Bengal Cavalry, — 15th March, 1885.

FURLOUGH AND LEAVE.

No. 413.—The undermentioned warrant officer is granted furlough out of India, with the necessary subsidiary leave —

Second Grade Assistant-Apothecary C. J. Maher, Presidency General Hospital, Calcutta, (m. c.) for one year, under rule 1 of the regulations of 1875.

No. 414.—Captain T. F. T. Fowle, R.A., Commissary of Ordnance, 3rd Class, is granted general leave from the 1st July to the 30th September, 1886.

No. 415.—The undermentioned officers have been granted extensions of furlough by the Secretary of State for India:—

Brigadier-General Sir J. Hudson, K.C.B., Bengal S. C., (m. c.) for twenty-five days.

Lieutenant-Colonel H. Y. Murray, Cavalry, (p. a.) for seventy-one days.

Lieutenant W. D. Gordon, Bengal S. C., (m. c.) for six months.

Sub-Conductor R. Cook, Commissariat Department, (m. c.) for four months.

LONDON GAZETTE.

No. 416.—The following extract is published for general information:—

"London Gazette," dated the 25th May, 1886, page 2514.

“WAR OFFICE,
Pall Mall, 25th May, 1886.”

MEMORANDA.

The undermentioned Lieutenant-Colonels to be Colonels:—

William Anderson, Madras Staff Corps. Dated 4th March, 1886.

Edmund Ghaznee Morregh, Madras Staff Corps. Dated 4th March, 1886.

Richard Mercer Lloyd, Bombay Staff Corps. Dated 4th March, 1886.

Arthur Marriott Ly., Madras Staff Corps. Dated 4th March, 1886.

Alfred Bloomfield, Bengal Staff Corps. Dated 7th March, 1886.

John Gilbert Erskine Griffith, Bombay Staff Corps. Dated 9th March, 1886.

Edward Cunningham, Bombay Staff Corps. Dated 20th March, 1886.

PROMOTIONS.

No. 417.—The following promotion is made, subject to Her Majesty's approval:—

BENGAL STAFF CORPS.

To be Captain.

Lieutenant Charles James Orr,—23rd June, 1886.

No. 418.—NATIVE ARMY—

9th Bengal Lancers.

Jemadar Juma Khan to be Ressaidar, *vice* Ressaidar Mahomed Hossein, invalided, with effect from the 1st May, 1886.

12th Bengal Infantry.

Color-Havildar Michel Roy to be Jemadar, *vice* Jemadar Ramparsad Doobay, invalided;

Color-Havildar Aparbal Singh to be Jemadar, *vice* Jemadar Jiwan Singh, invalided,—with effect from the 1st May, 1886.

30th Bengal Infantry.

Jemadar Nur Ali to be Subadar, and Havildar Didar Singh to be Jemadar, *vice* Subadar Ram Singh, transferred to the Burmah Police Levy, with effect from the 25th April, 1886.

2nd Battalion, 1st Goorkha Regiment.

Subadar Dal Sing Thapa, from 1st Battalion, to be Subadar-Major;

Subadar Rudarbir Bogti, from 1st Battalion, to be Subadar;

Jemadar Man Singh Bhandari, from 1st Battalion, to be Subadar;

Jemadar Bhim Sing Rana, from 1st Battalion, to be Subadar;

Jemadar Dobi Sing Karki, from 1st Battalion, to be Subadar;

Havildar Kishanbir Rana, from 1st Battalion, to be Subadar;

Havildar Balbir Gharti, from 1st Battalion, to be Subadar;

Havildar Drig Sing Gurung, from 1st Battalion, to be Subadar,—

with effect from the 19th February, 1886, on the formation of the battalion.

2nd Battalion, 2nd Goorkha Regiment.

Subadar Sarajit Gurung, from 1st Battalion, to be Subadar-Major;

Subadar Sher Sing Karki, from 1st Battalion, to be Subadar;

Jemadar Raghobir Gurung, from 1st Battalion, to be Subadar;

Jemadar Harkeshen Khattri, from 1st Battalion, to be Subadar;

Jemadar Badri Rana, from 1st Battalion, to be Subadar;

Jemadar Chamu Thapa, from 1st Battalion, to be Subadar;

Havildar Chat Singh Thapa, from 1st Battalion, to be Subadar;

Havildar Sera Khawas, from 1st Battalion, to be Subadar;

Havildar Bahadur Khawas, from 1st Battalion, to be Jemadar;

Havildar Gopal Borah, from 1st Battalion, to be Jemadar;

Havildar Lachman Rana, from 1st Battalion, to be Jemadar;

Havildar Madan Singh Thapa, from 1st Battalion, to be Jemadar;

Havildar Sher Singh Thapa, from 1st Battalion, to be Jemadar;

Havildar Moti Singh Gharti, from 1st Battalion, to be Jemadar;

Havildar Thapa Thapa, from 1st Battalion, to be Jemadar;

Havildar Harkarn Singh Thapa, from 1st Battalion, to be Jemadar —

with effect from the 14th February, 1886, on the formation of the battalion.

No. 419.—ORDNANCE DEPARTMENT—

The following Sub-Conductors, on probation, are confirmed in their present grade, with effect from the 1st December, 1885:—

Robert Mumford.

Stephen Penticost.

James Charles Bay.

No. 420.—PUNJAB FRONTIER FORCE—

2nd Sikh Infantry.

Jemadar Basawa Singh to be Subadar, and Havildar Tabha Singh to be Jemadar, *vice* Subadar Partab Singh, invalided;

Jemadar Mir Hassan to be Subadar, and Havildar Muhammad Khan to be Jemadar, *vice* Subadar Mad Mir, invalided,—with effect from the 11th April, 1886.

RETIREMENTS.

No. 421.—Colonel Hardress Edmond Waller, Bengal S. C., has been permitted to retire from the service, with effect from the 3rd June, 1886, subject to Her Majesty's approval.

REWARDS.

No. 422.—ORDER OF BRITISH INDIA—

The Governor-General in Council is pleased to admit the undermentioned Native Officer to the 2nd Class of the Order of British India from the date specified —

BOMBAY.

To the 2nd Class, with the title of Bahadur.

Ressaldar Khishil Mistr, 2nd Bombay Lancers, *vice* pensioned Subadar-Major Down Singh, Bahadur, deceased, —12th April, 1886.

VOLUNTEER CORPS.

Naini Tal Volunteer Rifle Corps.

No. 423.—Lieutenant John Woodburn to be Captain, *vice* Captain R. T. Hobart, who has resigned the appointment.

Fatehgarh Volunteer Corps.

No. 424.—Lieutenant Alexander William Roy to be Captain, *vice* Captain R. P. Atkinson, who has resigned the appointment.

Mr. Henry Seddon Wildeblood to be Lieutenant, *vice* Lieutenant Roy, promoted.

MARINE DEPARTMENT.

APPOINTMENTS.

No. 31.—Mr. John James Walmesley to be an Assistant Engineer in H. M.'s Indian Marine, with effect from the 5th June, 1886, subject to the approval of the Secretary of State for India.

E. H. H. COLLEN, *Lieut.-Colonel,*
Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

NOTIFICATION.

Simla, the 25th June, 1886.

Statement of Deposits on account of Estates between the 30th May and the 25th June, 1886.

On whose account.	Rank.	Corps.	Date of decease	Testate or Intestate.	Total unclaimed amount deposited.	Amount paid in India.	Date to which claims will be received.
Frederick Augustus Samuel D'Acosta-de St. Laurent, (a)	Major	Bengal Corps.	17th March, 1886.	No will in India	Rs. 405 A. P. 8 11		24th August, 1886.

(a) *Next-of-kin.* *Heirs.*—Francis de St. Laurent.
Address—1, Guelhofstrasse, Hamburg.
Surv.—Emily de St. Laurent.
Address—74, Die Burgner Strasse, Darmstadt

E. H. H. COLLEN, *Lieut.-Colonel,*
Offg. Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

NOTIFICATIONS.

Simla, the 18th June, 1886.

No. 161.—With reference to Foreign Department Notification No. 1193G., dated 17th June, 1886, replacing the services of Mr. A. R. Becher, Examiner of Public Works Accounts, at the disposal of the Public Works Department, Mr. Becher is appointed to officiate as Examiner of Public Works Accounts, Bengal.

The 22nd June, 1886.

No. 162.—Mr. A. J. Oldham, Executive Engineer, 2nd Grade, sub. *pro tem.*, is transferred permanently from Bengal to State Railways and his services placed at the disposal of the Chief Commissioner of British Burma.

This cancels Public Works Department Notification No. 137, dated 25th May, 1886, transferring Mr. P. B. Roberts to British Burma.

No. 163.—Babu Baroda Prosada Bosu, Executive Engineer, 4th Grade, sub. *pro tem.*, is permanently transferred from Bengal to State Railways and his services placed at the disposal of the Director-General of Railways. This cancels those portions of Public Works Department Notifications Nos. 129 and 130, dated 14th May, 1886, which relate to Babu Krishna Chunder Bandopadhyaya.

The 24th June, 1886.

No. 165.—Honorary Lieutenant and Deputy Assistant Commissary William Marr, Sub-Engineer, 3rd Grade, British Burma, is promoted to Assistant Engineer, 3rd Grade, with effect from 4th December, 1885, under Public Works Code, Chapter II, paragraph 49 (5th Edition).

The 25th June, 1886.

No. 166.—Mr. C. Simcon, Traffic Candidate, is appointed to Class IV of the Superior Revenue Establishment of State Railways, Traffic Department, with effect from the 1st July, 1886

TELEGRAPH.

The 24th June, 1886.

No. 164.—In directing the publication of the following extract from a Report by the Director-General of Telegraphs on the operations of the Telegraph Department in connection with the recent advance into, and occupation of, Upper Burma, the Governor-General in Council desires to place on record his appreciation of the excellent services rendered by the Department under circumstances of much difficulty and danger.

The Telegraph Department is organised as a Civil Department; and the ready devotion to duty which was displayed by all the staff employed in cheerfully accepting the hardships and risks involved in operating with an army in the field in an enemy's country, reflects no less credit on the Department than the foresight and ability displayed by the Director-General in organising the arrangements to secure effective results.

The Governor-General in Council expresses his cordial thanks to the Director-General, Mr. A. J. Leppoe Cappel, for the admirable manner in which the operations of the Department were organised, and also to the following officers, who are specially brought to the notice of Government for the services rendered by them—

- Mr. W. R. Brooke, Director of the Construction Branch.
- „ T. C. Hill, Chief Superintendent, Burma Division.
- „ H. M. S. Mathews, Assistant Superintendent in charge of Telegraph operations with the Expedition.
- „ A. L. Palmer, Assistant Superintendent.
- „ R. Elrington, „ „
- „ R. O. Lees, „ „
- „ A. J. L. Grimes, „ „
- „ P. W. Kingsley, Sub-Assistant Superintendent.
- „ E. D. Slave, „ „

Extract of Report from the Director-General of Telegraphs in India to the Secretary to the Government of India, Public Works Department, No. 125 E, dated Simla, the 31st May, 1886.

On the 31st October last I received official instructions, in connection with the contemplated despatch of an expeditionary force to Upper Burma, “to be prepared, on requisition from the local authorities or the General Commanding, to repair or erect the telegraph line beyond the frontier as the troops advance, so as to keep up communication between the Army and Rangoon.” I had received and acted upon an unofficial intimation to the same effect four days earlier. On the same date I received an urgent telegram from Rangoon, stating that the Chief Commissioner required the early construction of a line from Tonglao to the frontier, about 45 miles, and preparations to be made for a possible extension thence to Ningyan in Upper Burma: these arrangements were approved in the Military Department on the 1st November.

On the 13th November a completely equipped telegraph party, in charge of Mr. Assistant Superintendent H. M. S. Mathews, was organised in readiness to start with the expedition from Prome. This party was accommodated on a barge in tow of one of the steamers of the expedition, and, besides having material for flying lines and for renewing the Burman line, which was known to be very unreliable even if intact, had some miles of river cables, complete equipments for six separate telegraph stations, and twelve signallers.

It had been arranged by Mr. Hill, the Chief Superintendent of the Burma Division, in communication with the General Commanding, that Mr. Mathews should land at Minhla, and if, as was feared, communication thence to the frontier was interrupted, he should despatch a working party along the line. He was directed to do the same at the next Burman Office, and if there was reason to apprehend that the line had been seriously injured, he was to land his whole party and stores and commence the work of reparation. This programme was not, however, carried out. The General Commanding found himself unable to give permission to Mr. Mathews to land his party, and informed him that he wished him to accompany the expedition to Mandalay and then work back from that place repairing the line: at Minhla he, however, left a small line establishment. On arrival at Pagan on the 23rd

November, Mr. Mathews again urged upon the General the advisability of his landing and commencing the line repairs towards Mienhla, but the latter considered it inadvisable to commence operations at that time, and Mr. Mathews proceeded on to Mandalay. He arranged, however, to open an office close to Pagan where the detachment was encamped, and left there signallers, some workmen, and a small quantity of line material. At Myingyan he did the same.

In view of the importance attached to the early establishment of telegraphic communication with Mienhla, a second party was organised, in charge of Mr. Sub-Assistant Superintendent P. Kingsley, with the object of advancing by land as soon as the river expedition had started. These arrangements were explained to General Prendergast before he left, and escorts were promised, but they were unfortunately not obtainable; and as the necessity for an escort was proved within two miles of the frontier by the party encountering a band of dacoits who had just shot and brutally treated a Burman and his wife, they were compelled to wait until Mr. Hill could induce the military authorities to supply one. The escort, when available, was without carriage, and, after further delay in procuring carts for them, a start was made on the 20th November, but owing to the continuous rain, which had set in on the 18th, the road was found impassable by carts, and the detachment returned to Laingha.

On the following day another start was made, the baggage and food of the party being sent by river, and 10 miles of line were repaired. On the 22nd they accomplished another 8 or 10 miles, and opened an office for the night at Sinboungweh to report progress and to communicate, if possible, with Mienhla. Hearing nothing from the party which was supposed to be on its way downwards from Mienhla, they continued to work towards that place, which they reached on the 25th, the march having been made under heavy and continuous rain, through mud knee-deep in many places, and for two days they were without food, the steamer which carried supplies (a capture from the Burmese) having broken down.

A telegraph station was at once established at Mienhla, where it was ascertained that Mr. Mathews' party had proceeded to Mandalay, as already explained. To meet the altered conditions, the party which had repaired the line from the frontier to Mienhla was then divided into two,—one remaining under the charge of Mr. Sub-Assistant Superintendent Kingsley, the other being in charge of Mr. Sub-Assistant Superintendent E. D. Shave, an officer specially sent to Burma for the work,—and these two parties started at once northwards repairing the line, section by section, as far as Pagan, and had advanced beyond that place before Mr. Mathews' party from Mandalay was encountered. Communication as far as Pagan was established on the 30th, but the line was immediately cut, and was continually cut by the enemy as fast as it was repaired. Mr. Mathews started from Mandalay on the 30th November, having made his own arrangements for the carriage of the baggage and food of the party, and arrived at Myingyan on the 6th December, having effected temporary repairs to the line, which was found in very bad order; but, like the parties working from the south, Mr. Mathews found that the line had been cut behind him, and he was compelled to send back a party to again repair it while he continued his work southwards to Pagan.

Through communication with Mandalay was opened on the 11th December, but it was of short duration, the line being constantly cut in numerous places, and the work of the telegraph staff was arduous in the extreme. To strengthen their hands, intermediate stations were opened at Sinboungweh and Yenangyoung, but the greatest difficulty was felt between Myingyan and Mandalay, where the attacks of the dacoits were incessant. To facilitate the work of the troops on this section, intermediate offices were opened at Ava and Myotha, and a third has recently been established at Myanthan.

The extension to Myotha (Gabin) on the Tonghoo frontier, which was sanctioned on the 1st November, was completed by Mr. Assistant Superintendent A. L. Palmer, the officer in charge of the Rangoon Subdivision, on the 26th idem. The country was extremely difficult, and the weather as bad as that which was experienced on the Laingha frontier. Mr. Assistant Superintendent R. Elington took charge of the work on this frontier on the 28th November, and continued the line to Niugyan. The progress was at first slow, owing to physical difficulties and to the reluctance of coolies to cross the frontier, while all the transport of the district had been secured for the troops. The line was completed, however, on the 24th, and the office opened on the 25th December.

The above is a brief record of the operations which may be considered properly to belong to the initial expedition. The subsequent work of the Department in Upper Burma, and the larger operations which have followed my own special visit to Mandalay in March last, will be reported hereafter; but I may mention that, notwithstanding frequent attacks upon the line and upon our working parties, a substantial insulated line to Mandalay has now been erected, and that, when not maliciously cut, communication is maintained as regularly and rapidly with that city as with any part of India. For a long time the want of troops, as escorts, stopped all progress in the erection of new lines asked for by the military authorities, but these are being pushed on rapidly wherever the military are strong enough to protect the working parties; and the energetic Superintendent, Mr. Landon, who is now in charge of the Upper Burma Telegraphs, assisted as he is by an excellent staff of officers, may be relied upon to do all that is humanly possible.

This brief notice of the primary operations of the telegraph in connection with the advance into Upper Burma would not be complete without some mention of the serious outbreak of disturbances in the Shwegyin and Pegu districts, which added materially to the anxieties and responsibilities of the Superintendent, Mr. Hill. The dacoits destroyed the telegraph line in many places, cutting up both wire and posts, and for a time held the district; and, but for the rapid and vigorous action of Mr. Assistant Superintendent R. O. Lees, telegraphic communication between Rangoon and Moulmein would have been impossible for weeks.

* Mr. Grimes has since been working in Upper Burma, where he has proved himself to be a most valuable young officer.

This officer and another Assistant Superintendent, Mr. A. J. L. Grimes,* whom I had just sent to Burma to strengthen Mr. Hill's hands, behaved admirably on this occasion.

In connection with the events of 1885, I beg to bring specially to the notice of Government the services of Mr. T. C. Hill, Chief Superintendent of the Burma Division, upon whom devolved the labour of organising the working parties and directing their movements. Mr. H. M. S. Mathews, Assistant Superintendent, also deserves special mention. He was in charge of the main party, and, later on, of the whole line. He carried out the duties entrusted to him with great energy and judgment, and amply justified his special selection. Assistant Superintendents Messrs. A. L. Palmer and R. Elrington also did excellent work on the Tonghoo frontier, and Messrs. R. O. Lees and A. J. L. Grimes in the disturbed districts of Lower Burma; while the energy, intelligence, and zeal shown by Messrs. Kingsley and Shave, Sub-Assistant Superintendents, are in the highest degree creditable to them.

To my principal Construction officer, Mr. W. R. Brooke, I am greatly indebted for the ability and energy with which he seconded all my efforts. As on every previous occasion of emergency, his assistance was most valuable; and I have great pleasure in bringing his services prominently to the notice of Government.

W. S. TREVOR, *Colonel,*
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 26, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th June, 1886, and is hereby promulgated for General information:—

ACT NO. XIV OF 1886.

An Act to amend the North-Western Provinces Rent Act, 1881.

WHEREAS it is expedient to amend the North-Western Provinces Rent Act, 1881; It is hereby enacted as follows:—

1. This Act may be called the North-Western Provinces Rent Act, 1886; and it shall come into force at once.

2. For the last paragraph of section 95 of the North-Western Provinces Rent Act, 1881, the following shall be substituted, namely:—

“For the purposes of the Court-fees Act, 1870, the amount of fee payable in the cases next hereinafter mentioned shall be computed as follows:—

“(i) in applications under clause (c), and in appeals from orders passed on applications under that clause, as in a suit for possession of the land to which the application or appeal relates;

“(ii) in applications under clauses (l), (n), (o) and (p), and in appeals from orders passed on applications under clauses (d), (e), (f), (l), (n), (o), (p), (q) and (s), according to the rent of the land to

which the application or appeal relates payable for the year next before the date of presenting the application, or, if in any case the fee cannot be so computed, then according to the annual letting value of the land as estimated by the applicant or appellant, as the case may be;

“(iii) in applications under clause (m), and in appeals from orders passed on applications under clauses (l), (m) and (n) according to the amount claimed in the application or in the petition of appeal, as the case may be.”

New sections inserted after section 100 of same Act.

3 After section 100 of the same Act the following sections shall be inserted, namely:—

“100A. The Board may, on cause shown to its satisfaction, transfer any suit, application or appeal, or class of suits, applications or appeals, from any Court of Revenue to any other Court of Revenue competent as regards the nature of the case or class of cases to deal therewith under the provisions of this Act.

“100B. (1) The Commissioner of a Division may, with the sanction of the Local Government, transfer any appeal or class of appeals pending before himself to any Collector of a district within his Division.

“(2) The order passed by a Collector on an appeal transferred to him by the Commissioner under sub-section (1) shall be subject to appeal and revision in the same manner as if it had been passed by the Commissioner, and not otherwise.

“(3) The Local Government may by order recall any appeal transferred to a Collector under

sub-section (1), and refer it for disposal to the Commissioner of the Division by whom it was transferred."

4. For the last paragraph of section 169 of the same Act the following shall be substituted, namely:—

"The provisions of sections 74 to 78 (both inclusive) and section 80 shall, so far as they can be made applicable, apply to the sale of the property as if the terms 'distress,' 'distrained property' and 'distrainer' included respectively the execution of a writ against moveable property, moveable property taken in execution of a writ and a judgment-creditor."

5. In section 189 of the same Act, after the Addition to section words "one hundred rupees, or" the following shall be inserted, namely:—

"in which the rent payable by the tenant has been a matter in issue and has been determined, or"

6. In the same Act the last twelve words of Sections 193, 196 and section 196, the last twelve words of clause (a) of both sections 193 and 196, and the last six words of section 197, are repealed.

7. In section 194 of the same Act the word "other" is repealed; and in clause (b) of the same section, for the word and figures "section 99" the words and figures "sections 99 and 100" shall be substituted.

Substitution of new section for section 195 of same Act.

8. For section 195 of the same Act the following shall be substituted, namely:—

"195. The orders of an Assistant Collector of the first class on applications mentioned in section 98 shall be final."

9. In section 198 of the same Act, for the word and figures "section 100" the words and figures "sections 99 and 100" shall be substituted.

10. In section 199 of the same Act, after the words "The Board may" the words "notwithstanding anything hereinbefore contained" shall be inserted.

11. In section 211, after clause (d) the following shall be inserted, namely:—

"(e) as to the transfer of appeals to Collectors under section 100B."

12. Nothing in this Act shall confer a right to appeal from any decision passed before Act came into force or order passed before the coming into force of this Act from which an appeal would not have lain if this Act had not been passed.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the North-Western Provinces Rent Act, 1881, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th May, 1886.—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend the North-Western Provinces Rent Act, 1881, was referred, have the honour to report that the Government of the North-Western Provinces and Oudh, while approving the Bill as introduced, has recommended the addition to it of a clause making the provisions of section 80 of the Act of 1881 applicable to sales of moveable property in execution of decrees under that Act.

2. We approve the Bill, and have added to it the clause proposed by the Local Government.

3. The Bill has been published as follows:—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	20th and 27th February, and 6th March, 1886.
North Western Provinces and Oudh Government Gazette	27th February, and 6th and 13th March, 1886.

4. The Bill has not in our opinion been so altered as to require re-publication, and we recommend that it be passed as amended by us.

C. P. ILBERT.

S. C. BAYLEY.

A. COLVIN.

W. W. HUNTER.

The 20th May, 1886.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th June, 1886, and is hereby promulgated for general information:—

ACT NO. XV OF 1886.

An Act to amend the North-Western Provinces Land-revenue Act, 1873.

XIX of 1873. WHEREAS it is expedient to amend the North-Western Provinces Land-revenue Act, 1873, in manner hereinafter appearing; It is hereby enacted as follows:—

New section inserted after section 11. 1. After section 11 the following section shall be inserted, namely:—

"11A. (1) The Local Government may, from time to time, with the previous sanction of the Governor General in Council, appoint an Additional Commissioner in a Division.

"(2) An Additional Commissioner shall hold his office during the pleasure of the Local Government.

"(3) An Additional Commissioner shall exercise such powers, and discharge such duties, of the Commissioner of the Division under this Act, or under any other law for the time being in force, as the Local Government may, from time to time, prescribe, but only in such cases as the Commissioner of the Division may direct.

"(4) This Act and every other law for the time being applicable to the Commissioner of the Division shall apply to the Additional Commissioner, when exercising any powers or discharging any duties under sub-section (3), as if he were the Commissioner of the Division."

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the North-Western Provinces Land-revenue Act, 1873, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th May, 1886:—

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill to amend the North-Western Provinces Land-revenue Act, 1873, was referred, have the honour to report that the Bill has been accepted by the Government of the North-Western Provinces and Oudh, and is approved by us.

2. The Bill has been published as follows:—

		In English.	
Gazette.		Date.	
Gazette of India	20th and 27th February, and 6th March, 1886.
North-Western Provinces and Oudh Government Gazette	27th February, and 6th and 13th March, 1886.

3. We recommend that the Bill be passed without alteration.

C. P. ILBERT.
S. C. BAYLEY.
A. COLVIN.
W. W. HUNTER.

The 20th May, 1886.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 26, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was referred to a Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th June, 1886.—

NO. 7 OF 1886.

A Bill to consolidate and amend the law relating to rent in Oudh.

NOTE.—The 'marginal' quotations' refer to portions of sections of the Oudh Rent Act omitted from the Bill.

WHEREAS it is expedient to consolidate and amend the law relating to rent in Oudh and to other matters connected therewith; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY

1. This Act may be cited as the Oudh Rent Act, and shall extend only to Oudh.

2. Act XIV of 1868 is hereby repealed, but Repeal of Act XIV of all notifications published and rules made under the repealed Act shall, so far as they are consistent with the present Act, be deemed to have been published and made hereunder.

3. In this Act, unless there be something repugnant in the subject or context,—

"Oudh" means the territories under the administration of the Chief Commissioner of Oudh at the time of the passing of this Act:

"Court" means any judicial officer presiding in a Court of Revenue for the disposal of matters under this Act:

*The Oudh Rent Bill.**(Chapter I.—Preliminary.—Section 3.)*

“Suit.” “suit” means a suit under this Act :

“Assistant Commissioner” includes an Extra Assistant Commissioner :

“Assistant Commis- sioner.”

“land” applies only to land assessed to the land-revenue, and includes land whereof the revenue has been assigned by Government ; it also includes the ungathered produce of land, whether spontaneous or otherwise, and whether growing in earth or water :

“Land.”

“revenue” means the money payable to the Government on account of land :

“Revenue.”

“rent” means the money, or the portion of the produce of land, payable on account of the use or occupation of land, or of any right in land, or on account of the use of water for irrigation :

“Rent.”

“proprietor” does not include an under-proprietor. Where there are two private rights of property, one superior and the other subordinate, in the same land, “proprietor” means the holder of the superior right only :

“Proprietor.”

“Proprietary right.” “proprietary right” means a proprietor’s right in land :

“under-proprietor” means any person possessing a heritable and transferable right of property in land for which he is liable to pay rent :

“Under-proprietor.”

“Under-proprietary right.” “under-proprietary right” means an under-proprietor’s right in land :

“Under-proprietary right.”

“tenant” means any person, not being an under-proprietor, who is liable to pay rent. In the following sections of this Act, 7, 10, 13, 14, 15, 18, 19, 26, 38, 39, 40, 41, 42, 43, 43 (A), 83, 101, 111 and 116, but in no others, the expression “tenant” shall be held to include a *thikadār* or person to whom the collection of rents in a village or portion of a village has been leased by the landlord :

“Tenant.”

“landlord” means any person to whom an under-proprietor or tenant is liable to pay rent :

“Landlord.”

“representative” means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person. It includes the guardian of a minor and the legal curator of a lunatic or idiot : and

“Representative.”

“*lambardār*” means any person who has executed an engagement for the payment of the revenue to Government, or for the payment to a landlord of the rent due from under-proprietors holding a sub-settlement :

“Lambardār.”

“prescribed” means prescribed from time to time by the Local Government by rules made under this Act.

“Prescribed.”

*The Oudh Rent Bill.**(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 4-7.)*

[Act VIII, 1885, section 178.]

4. Nothing in any contract made between a landlord and a tenant before or after the passing of this Act shall entitle a landlord to eject a tenant or enhance his rent otherwise than in accordance with the provisions of this Act.

Nothing in any contract made between a landlord and a tenant after the passing of this Act shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them:

Provided that nothing in this section shall affect the terms or conditions of a lease granted bonâ fide for the reclamation of waste land.

CHAPTER II.

OF CERTAIN RIGHTS AND LIABILITIES OF LANDLORDS, UNDER-PROPRIETORS AND TENANTS.

Right of Occupancy.

5. Tenants who have lost all proprietary right, whether superior or subordinate, in the lands which they hold or cultivate, shall, so long as they pay the rent payable for the same according to the provisions of this Act, have a right of occupancy under the following rule:—

Every such tenant who, within thirty years next before the thirteenth day of February, 1856, has been, either by himself, or by himself and some other person from whom he has inherited, in possession as proprietor in a village or estate, shall be deemed to possess a heritable but not a transferable right of occupancy in the land which he cultivated or held in such village or estate on the twenty-fourth day of August, 1866: provided that such land has not come into his occupation, or the occupation of the person from whom he has inherited, for the first time since the said thirteenth day of February, 1856: provided also that no such tenant shall have a right of occupancy in any village or estate in which he or any co-sharer with him possesses any under-proprietary right.

Nothing contained in the former part of this section shall affect the terms of any agreement in writing hereafter entered into between a landlord and tenant.

5. (A). Nothing contained in section 5 shall be deemed to restrict the power of the landlord to confer on any persons other than those therein mentioned a right of occupancy in the lands which they hold or cultivate.

6. If a tenant having a right of occupancy be ejected, in accordance with the provisions of section 37, from the land in which he possesses such right, he shall thereupon lose his right of occupancy in such land.

Tenants' Right to Pattas.

7. Every tenant is entitled to receive from his landlord a patta or memorandum of the terms of the holding, signed by him.

Tenant's right to a patta.

The Oudh Rent Bill.

*(Chapter II.—Of certain Rights and Liabilities of Landholders, Under-
proprietors and Tenants.—Sections 8-13.)*

or his authorized agent, and containing the following particulars:—

the quantity of land, and, where the fields comprised in the *patta* have been numbered in a Government survey, the number of each field:

the term for which the *tenancy* is to run:

the amount of rent payable:

the instalments in which and the times at which the same is to be paid:

and, if the rent is payable in kind, the proportion of produce to be delivered, and the time, manner and place of delivery.

[any special conditions of the lease:]

8. Tenants having a right of occupancy are entitled to receive *pattas* having right of occupancy is entitled. at rates of rent determined in accordance with the provisions contained in sections 32, 33 and 34.

9. Tenants not having a right of occupancy are entitled to *pattas* for not having right of occupancy is entitled. the terms and at the rates prescribed in Chapter IV (B) of this Act.

Landlords' Right to Counterparts.

10. Every landlord who grants a *patta* is entitled to receive from the tenant a counterpart executed by him.

II. *Vide* section 43 (A).

Arrears of Revenue or Rent.

12. Any instalment of revenue or rent which is not paid on or before the day when the same becomes due, whether under a written agreement or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrear of revenue or rent, as the case may be:

Provided that, unless the proprietor and under-proprietor shall have otherwise agreed in writing, the rent payable to the former by the latter shall be held to become due one month before the date fixed for the payment of the revenue on account of the village in which the land in respect of which such rent is payable is situate, and to be payable in the same number of instalments as the said revenue; and the amount of each instalment of such rent shall bear the same proportion to the whole of such rent payable for the year as the amount of each instalment of such revenue bears to the whole of such revenue payable for the year.

Receipts.

13. Receipts for rent and acknowledgments of the tender of rent shall specify the year or years on account of which it has been paid or tendered; and any refusal to make such specification shall be held to be a withholding of a receipt or acknowledgment.

If such receipt or acknowledgment is withheld from any under-proprietor or tenant without sufficient cause, he may recover compensation from the landlord, not exceeding the amount so paid or tendered.

The Oudh Rent Bill.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 14-15.)

Deposit of Revenue or Rent in Court without Sects.

[having a right of occupancy, or holding under an unexpired lease or under an agreement or decree]

14. If any co-sharer, under-proprietor, or tenant, shall, at the Court, without set-off, place where the revenue or rent of the land held or cultivated by him is usually payable, tender to the person authorized to receive the same payment of the full amount of such revenue or rent due in respect of such land, and if such amount is not accepted and a receipt in full forthwith granted, it shall be lawful for the co-sharer, under-proprietor or tenant, without any suit having been instituted against him, to deposit such amount in Court to the credit of the person authorized to receive it.

Such deposit shall, so far as regards the co-sharer, under-proprietor or tenant, and all persons claiming through or under him, operate as a payment then made to the lambardar or landlord of the amount so deposited.

15. The Court shall receive such deposits on Procedure on making the written application of and withdrawal, such the co-sharer, under-proprietor or tenant, or his recognized agent; the application shall bear a stamp of eight annas; and on such co-sharer, under-proprietor, tenant or agent making a declaration in the form set forth in Schedule A hereto annexed, or as near thereto as circumstances will admit, the Court shall give him a receipt for the deposit.

Such declaration shall be verified in the manner prescribed for the verification of plaints in the Code of Civil Procedure, and the provisions of sections 52 of the said Code shall apply to the person making the verification. XIV of 1884

Upon receiving the money so deposited, the Court shall issue to the person to whose credit it has been deposited a notice in the form set forth in Schedule B hereto annexed.

Such notice shall be served by the proper officer, without the payment of any fee, upon the person to whom it is addressed, or upon his recognized agent.

In the absence of any such agent, it may be served by putting up a copy of the notice at the court-house, and another copy at the ordinary place of residence, within the jurisdiction of the Court, of such person, or, if there be no such place, at the place where the revenue or rent is usually paid to the lambardar or landlord, as the case may be, for the land in respect of which the money has been deposited.

If the person on whom such notice is served, or his recognized agent, appear and certify that the money in deposit be paid to him, it shall immediately be paid accordingly.

The Oudh Rent Bill.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 20-21 (1).)

35 and 36]

[provided that if the under-proprietor hold a sub-settlement, or if the tenant hold a lease for a term of not less than five years, or have a right of occupancy in a revenue-paying estate, no such remission shall be allowed to him, unless a remission of revenue shall have been allowed on the same ground and by competent authority in the same estate]

Remission of Rest.

20. Notwithstanding anything contained in the said Order, any Court may, if it is satisfied that the tenant has been prevented from paying the rent by any calamity beyond his control, or if the produce of such land has been diminished by drought or hail, or other calamity beyond his control, to such an extent that the full amount of rent payable by him cannot, in the opinion of the Court, be equitably demanded,

R. frequency of Load.

21. Every tenant shall continue liable for the rent of the land in his holding, unless on or before the tenth of *March* in any year he gives notice *in writing* to the landlord or his authorized agent of his desire to relinquish such land, and relinquishes it accordingly.

If the landlord or his recognized agent refuse to receive such notice, *it shall not deter a receipt in the same*, the tenant may, *before the latest day prescribed for giving such notice*, apply to the sheriff or a police officer, and written notice of such doing shall thereafter be served on such landlord or agent, and the tenant shall pay the costs of service.

The notice shall, if practicable, be served personally on the landlord or agent; but if he cannot be found, service may be made by affixing the notice at his usual place of residence, or if he does not reside in the district wherein the land is situate, at the *grange* or other conspicuous place in the village wherein the land is situate.

[illegible]

When a party has a right under a trust, such as the right which he would be entitled to exercise as a tenant in common, S. 4, and 10, of this Act, to acquire or dispose of the holding; and the Court shall see that the exercise of the benefit and interest conferred by the trust is not prejudicial to the holding, or to the interests of any person entitled to the benefit of the trust.

nor unless it has been let to any other person by such landlord or agent;

Act VIII 188, section 5.

The Outh Rent Bill.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 22-25.)

to compensation to persons injured and payment of arrears of rent as to the Court may seem just.

Compensations for Tenants' Improvements.

22. If any tenant, or the person from whom he has inherited, make any improvements on the land in his occupation as are hereinafter mentioned, neither he nor his representative shall be ejected from the same land, unless and until he or his representative, as the case may be, has received compensation for the [] improvements made on the land by him, or the person from whom he has inherited, or whom he represents [].

[outlay, in money or labour, or both, expended in making such]

[within thirty years next before the date of such enhancement or ejection]

23. Except as provided in the next following section, no tenant shall be entitled to claim compensation for an improvement made subsequently to the passing of this Act without the written consent of the landlord.

24. If in any case the tenant apply to the landlord for his written consent to his making an improvement on his holding, and the landlord withhold or refuse to grant it, it shall be lawful for the tenant to apply to the Deputy Commissioner for sanction to make the improvement. The Deputy Commissioner, after taking into consideration any objections which the landlord may have to urge, either on the ground that—

(a) the improvement is too costly or is unsuitable to the nature of the tenant's holding, or that

(b) he is prepared to make such improvement himself,

shall grant sanction on such conditions as he may consider fair and equitable or refuse the application. No appeal shall lie against an order passed by the Deputy Commissioner under this section.

25. The word "improvements," as used in this Act, means works by which the annual letting value of the land has been, and at the time of demanding compensation continues to be, increased, and comprises—

1st.—The construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage, and for protection against floods; the construction of wells; the reclaiming and clearing of waste lands and jungles, and other works of a like nature.

2nd.—The renewal or reconstruction of any of the foregoing works, or such alterations therein or additions thereto as are not required for maintaining the same, and which increase durably their value.

*The Oudh Rent Bill.**(Chapter III.—Commutation and Payment of Rent in kind.—Sections 25A-28.)*

Principle on which compensation is to be estimated. 25 (A). *In estimating the compensation to which a tenant is entitled regard shall be had—*

- (a) *to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement;*
- (b) *to the condition of the improvement and the probable duration of its effects;*
- (c) *to the labour and capital required for the making of such an improvement;*
- (d) *to any reduction or remission of rent or any other advantage given by the landlord to the tenant in consideration of the improvement; and*
- (e) *in the case of a reclamation, or of the conversion of unirrigated into irrigated land, to the length of time during which the tenant has had the benefit of the improvement.*

Act VIII, 1885, section 83.

Ditto, clause 2.

25. (B) *When a Court has assessed the amount of the compensation due to a tenant under the last preceding section, it may, if both landlord and tenant desire that the compensation assessed, instead of being paid wholly in money, shall be made wholly or partly in some other way, proceed to give judgment according to the terms agreed upon between them.*

26. *A landlord shall be entitled to make any improvement of the nature specified in section 25 on the holding of a tenant not having a right of occupancy with or without the consent of the tenant.*

A landlord who proposes to make an improvement shall, if the work is to be constructed in the holding of any tenant, give notice to the tenant through the tahsildar.

Survey and Measurement.

27. Every landlord, his agents and surveyors, may at all reasonable times enter upon any land comprised in his estate for the purpose of surveying and measuring the same.

CHAPTER III.

COMMUTATION AND PAYMENT OF RENT IN KIND.

28. In any district in which a settlement of revenue is in progress, it shall be in the discretion of any officer employed in making or revising such settlement, in any case

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(Chapter IV.—Enhancement and fixing Rates of Rent.—Sections 36-36 C.)

separate engagement. Such engagement may be express or implied.

36. *If the landlord desires to enhance the rent of the tenant on the expiration of the term of seven years referred to in sections 35 and 35 (A), or at any time thereafter, he shall cause a notice to that effect to be served in the manner prescribed in section 35B. Until such notice is issued, the tenant shall be entitled to hold at the former rent :*

Provided—(a) that the enhancement shall in no case exceed one anna in the rupee or six and a quarter per cent. on the annual rent payable when the notice is issued;

(b) that the terms of this section shall not apply to a tenant paying rent in kind.

36. (A). *The notice shall be written in Hindi and Urdu : it shall specify the land, the amount of the present rent and the amount of the enhancement, and shall require the tenant, if he refuses to pay the enhancement, to vacate the land by the fifteenth day of May next following, or to institute a suit in the proper Court to contest the notice of enhancement within a month from the date on which it was served.*

36 (B). *On the application of the landlord to the tahsildar or officer authorized to serve such notices, the notice shall be served by such officer on or before the fifteenth day of February, and the landlord shall pay the cost of service.*

The notice shall, if practicable, be served personally on the tenant. But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the village chaupal or other conspicuous place in the village wherein the land is situate.

36 (C). *A tenant may institute a suit to contest his liability to enhancement on any of the following grounds :—*

- 1st—That he holds a lease or agreement or a decree of Court under the terms of which he is not liable to enhancement.*
- 2nd—That he has a right of occupancy in the land.*
- 3rd—That the enhancement claimed is in excess of the rate authorized by law.*
- 4th—That seven years have not elapsed since the date of the last change in the rent or alteration of the area of the holding by the landlord.*

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5th — That the notice has not been served in the manner prescribed in section 36 B.

36 (D). If the objection of the tenant is found by the Court to be invalid, the tenant shall be entitled to continue in possession of the land for a period of thirty days from the date on which the objection was served, or the expiration of such period, and the tenant shall, if he retain possession of the land after the fifteenth day of May next following the date of service of the notice, be held liable for the enhanced rent.

36 (E). If the tenant accepts the enhanced rent claimed by the notice, or remains in possession of the land under the terms of the preceding section, he shall be entitled to hold the land at such rent for a further period of seven years.

36 (F). If the tenant refuses to accept the enhancement claimed and vacates the holding, he shall be entitled to recover by separate suit from the landlord compensation for any improvements made by him on the holding.

36 (G). Except in the cases mentioned in the next following section, the rent of a tenant admitted to the occupation of any land the tenure of which has determined according to the provisions of this Act shall not exceed by more than one anna in the rupee, or six and a quarter per cent., the rent payable by the tenant immediately preceding.

36 (H).—The rent of a tenant admitted to the occupation of any land the tenure of which has determined according to the provisions of this Act shall not exceed by more than one anna in the rupee, or six and a quarter per cent., the rent payable by the tenant immediately preceding.

36 (I). The heir of a tenant who dies during the currency of the tenancy shall have the right to retain the occupation of the land at the rent payable by the deceased for the unexpired portion of the period for which the deceased tenant would have held without liability to enhancement or reduction, and to receive compensation under the provisions of this Act for improvements, if any, effected on the holding by himself or his predecessor in interest, but shall have no right to a renewal of the tenancy or to compensation for disturbance.

36 (J). Notwithstanding anything contained in the preceding sections, the Local Government shall have power to vary, from time to time, the limit of enhancement of rent.

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to time, within periods of not less than seven years, the limits of the enhancement to which tenants, not having rights of occupancy, are liable.

36 (K). Nothing in the preceding sections shall bar the right of a landlord to demand an enhancement of rent on the ground that the productive powers of his land held by the tenant have been increased by an improvement effected by, or at the expense of, the landlord during the currency of the tenancy.

Where an enhancement is claimed on the ground of such an improvement, the Court in determining the amount of such enhancement shall have regard to—

- firstly—the increase in the productive powers in the land caused, or likely to be caused, by the improvement;*
- secondly—to the cost of the improvement;*
- thirdly—to the cost of the cultivation required for the utilising of the improvement.*

CHAPTER V.

EJECTMENT.

Tenants with Right of Occupancy.

37. No tenant having a right of occupancy, Ejectment of tenant or holding under an unexpired lease, or special occupancy, agreement, or decree of Court, shall be ejected otherwise than in execution of a decree for ejectment:

[Act XIX, 1868, section 41.]

Provided that, if the tenant have a right of occupancy in the land from which the landlord desires to eject him, the decree shall not be made, unless, at the date of the decree, a decree against such tenant for an arrear of rent in respect of such land has remained unsatisfied for fifteen days or upwards.

Other Tenants.

38. A tenant not having a right of occupancy, Ejectment of tenant and not holding under an unexpired lease, or an occupancy, agreement, or a decree of Court, may be ejected in accordance with the provisions of this Act: *first*, in execution of a decree for [] ejectment under section 43A or by application under section 43; or, *second*, by notice given by his landlord in the manner described in the next following sections.

[Act XIX, 1868, section 42.]

38(A). A landlord who desires to eject a tenant Compensation for disturbance. his tenancy may issue a notice of ejectment on such tenant, but shall

[arrears of rent or for]

*The Oudh Rent Bill.**(Chapter V.—Ejectment.—Sections 39-40.)*

Deposit with the notice in the hands of the officer authorized to serve the notice a sum equal to the rent payable by the tenant for the year commencing immediately preceding as compensation for disturbance.

In the case of a tenant paying rent to land the amount of compensation to be deposited under section 39 shall be a sum equal to the average value of the produce paid as rent during the preceding three years.

Provided that no such compensation shall be payable to a tenant in respect of so much of his holding as he has sub-let without the consent of the landlord, or in the cases provided for by sections 36 (1), 42 and 43 (A).

[Act XIX, 1868, section 43.

39. The notice mentioned in section 38 A shall be written in Hindi and if the tenant not having in Urdu; it shall specify the land from which the tenant is to be ejected; and it shall inform him that he must either (a), if he means to dispute the ejectment, institute a suit for that purpose within thirty days from the date of the service of the notice, or (b) vacate the land on or before the fifteenth of May next following.

On the application of the landlord to the tahsildar or officer authorised to serve such notices, the notice shall be served by such officer on or before the fifteenth day of November, and the landlord shall pay the costs of service.

The notice shall, if practicable, be served personally on the tenant. But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situated, at the village *chamlat* or other conspicuous place in the village wherein the land is situated.

[Act XIX, 1868, section 37]

40. A tenant on whom a notice has been served under section 39 may contest his liability to be ejected from the land specified therein on any of the following grounds:—

1st—That he holds a lease or an agreement, or a decree of Court, under the terms of which he is not liable to such ejectment.

2nd—That he has a right of occupancy in the land.

3rd—If he be a tenant not having a right of occupancy, that notice of ejectment has not been served upon him in manner provided by section 39.

4th—That seven years have not elapsed since the date of the last change of rent or alteration of the area of the holding.

5th—That he is entitled to compensation for disturbance, and that the landlord has not deposited the sum required by this Act.

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(Chapter V.—Ejectment.—Sections 40A-43.)

Explanation.—A *thikadár* is not entitled to contest a notice of ejectment on any ground other than that he holds a lease under the terms of which he is not liable to ejectment.

40 (A). If the tenant has any claim for compensation for improvements effected by him on the holding, he shall file with his plaint a statement of the claim and of the grounds on which it is based.

40 (B). If the Court finds the objections of the tenant to be invalid, it shall determine the amount of the compensation, if any, due for improvements, and shall declare the ejectment to be conditional on payment of that amount into Court.

41. If the tenant on whom such notice of ejectment has been served fails, within thirty days from the date of the service, to institute a suit to contest his liability to be ejected, his tenancy of the land in respect of which the notice has been served shall be held to cease on the first day of May following, unless, after the service, the landlord has expressly authorised him to continue to occupy the land.

[Act XIX, 1868, section 41.]

42. If no such suit be brought, or if a suit has been brought and dismissed adversely to the tenant, and the landlord require the assistance of the Court to eject any person whose tenancy is alleged to have ceased [], he may apply for such assistance, and, if the Court is satisfied that notice of ejectment was duly served on such person, and that any compensation for improvements and disturbance, which may be due to the tenant, has been paid into Court or to the proper officer, it shall give such assistance accordingly.

[Ditto, section 42.]

under the provisions of section 41]

Provided that nothing done by the Court under the previous part of this section shall affect the right of any tenant to institute a suit against his landlord on account of illegal ejectment and to recover compensation for the same.

43. If a landlord desires to eject a tenant, not being a tenant with a right of occupancy, against whom a decree for arrears has been passed and remains unsatisfied, he may, after the first of April of the year in which the arrears accrued, apply to the Deputy Commissioner to eject the tenant. The Deputy Commissioner shall, on receiving the application, cause a notice to be served on the tenant, stating the amount due under the decree and informing him that, if he does not pay that amount into Court within fifteen days from the receipt of the notice, he will be ejected from his holding.

[Act XIX, 1881, section 35.]

If the amount be not so paid, the Deputy

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Commissioner shall, unless good cause be shown to the contrary, eject the tenant.

[Act VIII, 1885, section 25.]

43 (A). A decree for ejectment may be passed against a tenant on the ground—

Decree for ejectment.

(a) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of his tenancy; or,

(b) where the rent is payable in kind, that his cultivation has diminished to a point which by the custom of the locality involves the forfeiture of the holding.

The tenant shall continue liable for the rent of the land until the decree is executed.

General.

[except a sub-lessor]

[Act XIX, 1868, section 38.]

[unless, while his rent is in arrear, he has failed to cultivate the land in his possession in accordance with the terms on which he holds it]

[Act XIX, 1868, section 39.]

44. No tenant [] shall in any case, whether in execution of a decree or otherwise, be ejected from the land in his occupancy, except between the first day of April and the fifteenth day of June in any year after the passing of this Act [].

45. A *thikadár* liable to be ejected under the provisions of this Act may be ejected at any time during his tenancy.

46. Any tenant ejected in accordance with the provisions of this Act shall be entitled to receive from the landlord the value of any growing crops or other ungathered products of the earth belonging to such tenant, and being on the land at the time of his ejectment:

Provided that, if the land shall have been sown or planted by the tenant after the service on him of the notice mentioned in section 39, he shall not be so entitled, unless, after such service, the landlord has expressly authorised him to continue to occupy the land.

Sir Lands.

46 (A). The rights conferred upon tenants by sections 24, 25, 35(A), 36, 36(A), 36(B), 36(C), 36(D), 36(E) and 36(F) shall not accrue to cultivators of any of the following lands:—

(a) Land which for the seven years immediately preceding the passing of this Act has been continuously dealt with as *sir* in the distribution of proprietary profits and charges. This condition shall be presumed, until the contrary is proved, where land was recorded as *sir* at settlement and has been continuously so recorded since:

(b) Land which for the seven years immediately preceding the passing of this Act has been continuously cultivated

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*by the proprietor himself or by his
servants or by hired labour.*

46 (B). *A person holding land as a thikadár or mortgagee shall not, while so holding, acquire any of the rights enumerated in the preceding section in any of the land comprised in his thika or mortgage.*

Explanation.—A person having such rights in land does not lose them by subsequently taking a thika or mortgage in which his holding is comprised.

CHAPTER VI.

DISTRESS FOR ARREARS OF RENT.

47. When an arrear of rent is due from any tenant, the landlord may recover of arrears of rent by distress. *Recovery of arrears of rent by distress.* He may distrain the produce of the land in respect of which the arrear is due, subject to the rules contained in the following sections :

Provided that, when a tenant has given security for the payment of his rent, the produce of the land in respect of which such rent is payable shall not be liable to distress so long as the security is in force. *Proviso as to tenants who have given security for payment of rent.*

48. Distress shall not be made for any arrear which has been due for a longer period than one year ; nor for the recovery of any sum in excess of the rent payable in the last preceding year for the land in respect of which the arrear is due, unless the tenant has agreed in writing to pay such excess, or unless he has been declared to be liable for the same by a decree of Court. *No distress in certain cases.*

49. The power of distress vested by section 47 in landlords may be exercised by managers under the Court of Wards, managing agents and tahsildárs of estates held under khám management, and other persons lawfully entrusted with the charge of land, and also by the agents employed by landlords or any such persons as aforesaid in the collection of rent, if expressly authorised by power-of-attorney to distrain : *Power of distress by whom exercisable.*

Provided that, if any such agent, purporting to act in the exercise of the said power, commits an act which, under the provisions of this chapter, is illegal, the person employing such agent shall be liable, as well as the agent, to be sued for compensation for any injury caused by such act. *Liability of principal to act in the exercise of agent.*

50. Any person empowered to distrain property under section 47 or section 49 may employ a servant or other person to make the distress ; but in every such case he shall give to such servant or person a written authority for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority. *Distress by servants.*

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51. Standing crops and other ungathered produce liable to distress. Crops liable to distress. Products of the earth, and crops or other products when reaped or gathered and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with powers of distress under this Act.

But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same agreement as the land in respect of which the arrear is due, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distress under this Act.

52. Before or at the time when any distress is made under this Act, the demand of arrear be- fore or at time of dis- tress. distainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

The demand and account shall, if practicable, be served personally on the defaulter, but if he cannot be found, they shall be affixed at his usual place of residence, and shall thereupon be deemed to be duly served upon him.

53. Unless the amount of the demand is immediately paid or tendered, the distainer may distress property as aforesaid of value as nearly as may be equal to the amount of the arrear with the costs of the distress; and shall prepare a list or description of the soil property, and deliver a copy of the same to the owner, or if he be absent, affix it at his usual place of residence.

54. Standing crops and other ungathered produce and standing crops when distressed. Products of the earth may, notwithstanding the distress, be reaped or gathered by the tenant, and may be stored in such granaries or other places as are commonly used by him for the purpose.

If the tenant neglect to do so, the distainer may cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

In either case the distrained property shall be placed in the charge of some proper person appointed by the distainer for the purpose.

If the crops or products do not, from their nature, admit of being stored, the distress shall be made (if at all) at least twenty days before the time when the crops or products or any part thereof would ordinarily be fit for cutting or gathering.

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55. If a distrainer is opposed or apprehends resistance, and desires to obtain the assistance of a public officer, he may apply to the Court, and the Court may, if it think necessary, depute an officer to assist the distrainer in making the distress.

56. If at any time after property has been distrained as aforesaid, and before the sale thereof as hereinafter provided, the owner tender payment of the arrear demanded and of the costs of the distress, the distrainer shall receive the same and give a receipt therefor, and shall forthwith withdraw the distress.

57. Within five days from the time of storing any distrained crops or products, or, if such crops or products do not from their nature admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the proper officer authorized to sell property in satisfaction of decrees of the Court within whose jurisdiction the distrained property is situate.

58. The application shall be in writing; it shall contain a list or description of the property distrained, and it shall state the name of the defaulter, his place of residence, the amount due and the place in which the distrained property is deposited.

Together with the application, the distrainer shall deliver to the proper officer the sum payable for the service of a notice upon the defaulter as hereinafter provided.

59. Immediately on receipt of the application, the proper officer shall send a copy of it to the Court, and shall serve a notice in the form contained in Schedule C hereto annexed, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or within fifteen days from the receipt of the notice to institute a suit to contest the demand.

The officer shall at the same time send to the Court, for the purpose of being put up at the court-house, a proclamation fixing a day for the sale of the distrained property, not less than twenty days from the date of the proclamation; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain a description of the property, and shall specify the demand for which it is sold, and the place where the sale is to be held.

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60. If a suit is instituted in pursuance of the aforesaid notice, the Court shall send to the proper officer, or, if so requested by the owner of the distrained property, shall deliver to him, a certificate of the institution of the suit.

On such certificate being received by, or presented to, the proper officer, he shall suspend proceedings in regard to the sale:

Provided that, if in his opinion the property distrained is such that delay will cause damage thereto, he may direct its immediate sale.

61. Any person whose property has been distrained as aforesaid may institute a suit to contest the distrainer's demand at any time before the expiration of the fifteen days mentioned in section 59.

When such suit is instituted, the Court shall proceed in the manner prescribed in section 60.

If application for the sale of the property is afterwards made to the proper officer, he shall send a copy of the application to the Court, and suspend further proceedings pending the decision of the case.

62. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with one or more surety or sureties, for an amount not less than double the value of the property so distrained, binding himself to pay whatever sum may be adjudged to be due from him, with costs of suit.

When such bond is executed, the Court shall give to the owner of the property a certificate to that effect, or, if he so requests, shall serve the distrainer with notice of the same.

Upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Court, the property shall be released from distress.

63. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the proper officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as are allowed by him, be discharged in full, proceed, with the sanction of the Court, to sell the property, or such part thereof as may be necessary.

64. The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bázár or other place of public resort, if the

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proper officer thinks that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the officer holding the sale thinks advisable; and if the demand, with the costs of distress and sale, be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

65. If, on the property being put up for sale, the price which the officer holding the sale shall think offered, fair be not offered, and if the owner of the property or his recognized agent apply to have the sale postponed until the next day, or (if a market be held at the place of sale) until the next market-day, the sale shall be postponed until such day, and shall be then completed at whatever price may be offered.

66. The price of every lot shall be paid in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks fit; and in default of such payment the property shall be put up again and resold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate stating the property purchased by him and the price paid therefor.

67. The officer holding the sale shall deduct from the proceeds one anna for every rupee and fraction of a rupee on account of the expenses attending the sale.

He shall then pay to the distrainer the expenses incurred by him on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 59, to such amount as, after examination of the statement of expenses furnished by the distrainer, the officer thinks proper to allow.

The remainder shall be applied to the discharge of the arrears for which the distress was made, and the surplus (if any) shall be delivered to the person whose property has been sold.

68. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are forbidden to purchase, either directly or indirectly, property sold by such officers.

69. The officer mentioned in section 57 shall bring to the notice of the Court any illegal act which shall come to his knowledge as having been committed by any person in making a distress under this Act.

If in any case, on proceeding to hold a sale under this Act, such officer finds that the owner has not received due notice of the distress and

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intended sale, he shall postpone the sale and report the case to the Court, and the Court shall direct the issue of another notice and proclamation of sale under section 59, or make such other order as it thinks proper.

70. When such officer has gone to any place for the purpose of holding a sale, and no sale takes place, either for the reason stated in section 69, or because the distrainer's demand has been previously satisfied, the said charge on account of expenses attending the sale shall be leviable by the officer, and shall be calculated on the value of the distrained property, as estimated by him, unless the distrainer's demand has been satisfied before the day fixed for the sale and notice of such satisfaction has been given by him to the officer.

If the distrainer's demand be not satisfied until the day fixed for the sale, the charge shall be paid by the owner of the property, and may be recovered by sale of such portion thereof as may be necessary.

In every other case the charge shall be paid by the distrainer, and may be recovered under the warrant of the Court by attachment and sale of his property :

Provided that in no case shall an amount exceeding ten rupees be recoverable under this section.

71. When a suit has been instituted to contest a distrainer's demand, and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Court shall issue an order to the proper officer authorizing the sale of the property.

On the application of the distrainer (which shall be made within five days from the receipt of such order by such officer), such officer shall publish a second proclamation in the manner prescribed in section 59, fixing another day for the sale of the distrained property, not less than five nor more than ten days from the date of the proclamation ; and, unless the amount adjudged to be due with cost of distress be paid immediately, shall proceed to sell the property in the manner heretofore provided.

72. In all suits instituted to contest a distrainer's demand the defendant must prove the amount in the same manner as if he had himself brought a suit for the amount under the foregoing provisions of this Act.

If the demand or any part thereof is found to be due, the Court shall make a decree for the amount in favour of the distrainer.

Such amount may be recovered by sale of the distrained property as provided in section 71,

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and if the distress has not been withdrawn, and if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter, or, if the distrained property have been released on security, by execution of the decree against the person and property of the defaulter, and, if his surety has been made a party to the suit, against the person and property of such surety.

73. If the distress is adjudged to be vexatious or groundless, the Court, besides directing the release of the distrained property, may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

74. If any person claims, as his own, property which has been distrained for arrears of rent, and if the claimant is not the person to whom the property is alleged to be due from any other person, the claimant may institute a suit against the distrainer and such other person to try the right to the property, in the same manner, and under the same rules as to the time of instituting the suit and as to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

75. When any such suit is instituted, the property may be released upon security for its value being given to the satisfaction of the Court.

If the claim is dismissed, the Court shall make an order in favour of the distrainer for the sale of the property, or the recovery of its value, as the case may be.

If the claim is upheld, the Court shall order the release of the distrained property, and may award such compensation as it thinks fit, not exceeding twice the value of the property distrained.

76. No claim to any produce of land liable to distress under this Act, and found at the time of the distress in the possession of a defaulting tenant, whether such claim be in respect of a previous sale, mortgage or otherwise, shall bar the landlord's prior claim, nor shall any attachment in execution of a decree of any Civil Court prevail against such claim.

77. Whenever property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, and the right to distrain for such

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arrears is claimed by or on behalf of any person other than the distrainer, on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made by a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the commencement of the suit shall be inquired into, and the suit shall be decided according to the result of such inquiry :

Provided that the decision of the Court shall not affect the right of any person having a title to the rent of land to establish such title in a Court of competent jurisdiction, by suit instituted within one year from the date of the decision.

78. Any person whose property has been distrained for the recovery of a demand not justly due or of a demand due or alleged to be due from some other person, and who is prevented by any sufficient cause from bringing a suit to contest the demand or try the right to the property, as the case may be, within the period allowed by sections 59 and 74, and whose property is in consequence brought to sale, may institute a suit to recover compensation for any injury which he has sustained from the distress or sale.

79. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrains or sell any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act,

or if any distrained property is lost, damaged or destroyed, by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof,

or if the distress is not immediately withdrawn when any provision of this Act requires such withdrawal,

the owner of the property may institute a suit to recover compensation for any injury which he has thereby sustained.

80. If any person not empowered by this Act to distrain or sell, or to distrain or sell, nor duly authorized for that purpose by a person so empowered, purports to distrain or sell any property under this Act, the owner of such property may institute a suit to recover compensation from the person so distraining or selling for any injury which the plaintiff has sustained from the distress or sale.

Such suit shall not affect the defendant's liability to be prosecuted under any law for the time being in force.

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Sections 81-83.)*

81. If any person resists a distress of property duly made under this Act; or forcibly or clandestinely removes any distrained property, the Court, upon complaint being made within ten days from the date of such resistance or removal, shall cause the person accused to be arrested and brought before the Court with all convenient speed, and the Court shall proceed forthwith to try the case.

If the case cannot be at once heard and determined, the Court may, if it think fit, require the party arrested to give security for his person, whenever the same may be required, and, in default of such security, may commit him to the civil jail until the case is tried.

82. If such resistance or removal of property be proved, the Court may order the offender to pay a fine not exceeding one hundred rupees, together with all costs and expenses incurred in the case or in making the distress, and, in default of payment, may order him to be imprisoned in the civil jail until payment is made: Provided that no such imprisonment shall continue for more than six months.

CHAPTER VII.

JURISDICTION OF THE COURTS.

Suits cognizable.

83. No Courts other than Courts of Revenue Suits cognizable in Oudh shall take cognizance of the following descriptions of suits, and such suits shall be heard and determined in the said Courts of Revenue in the manner provided in this Act, and not otherwise:—

A.—Suits by a Landlord.

(1.)—For the delivery by a tenant of the counterpart of a *patta* under section 10;

(2.)—For arrears of rent;

(3.)—For the enhancement of the rent of a tenant [];

(4.)—For the ejectment of a tenant [];

(5.)—Suits by landlords against patwáris or agents employed by landlords in the management of land or the collection of revenue or rent, or against the sureties of such patwáris or agents for money received or accounts kept by such patwáris or agents in the course of such employment, or for papers in their possession, or for the rendering and settlement of accounts.

[having a right of occupancy]

[or for cancelling any lease on account of the non-payment of arrears of rent or on account of a breach of the conditions of such lease]

B.—Suits by an Under-Proprietor or a Tenant.

(6.)—For establishing a right of occupancy;

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Section 83.)*

(7.)—For the delivery by a landlord of a *patta*;

(8.)—For contesting a notice of ejectment;

(9.)—For compensation—

on account of illegal enforcement of payment of rent, or of any sum in excess of rent, due,
or on account of the refusal of receipts or acknowledgments for rent paid or tendered,

or on account of illegal ejectment,

or on account of the value of standing crops under section 46,

or on account of loss arising for the making of improvements under section 26;

(10.)—For the recovery of the occupancy of any land of which an under-proprietor or tenant has been dispossessed or from which he has been illegally ejected by the landlord;

(11.)—For contesting the exercise of the power of distraint conferred on landlords and others by this Act, or any acts purporting to be done in exercise of the said power, or for compensation for illegal distraint;

(12.)—For abatement for rent in accordance with the provisions of section 19;

(13.)—For the recovery of compensation for improvements in accordance with the provisions of section 22.

C.—Suits regarding the Division or Appraisal of Produce.

(14.)—Suits under section 31, regarding the division, estimate or appraisal of the produce of land.

D.—Suits by and against Lambardárs, Co-sharers and Moujárs.

(15.)—Suits by a sharer against a lambardár or co-sharer for share of the profits of an estate or any part thereof, or for the rendering and settlement of accounts in respect of such profits;

(16.)—Suits by a lambardár or pattidár who is entitled to collect the rents of the patti, for arrears of revenue or rent payable through him by the co-sharers whom he represents, and by a lambardár for village-expenses and other dues for which the co-sharers may be responsible to him, or against a joint lambardár for compensation for revenue or rent paid by such lambardár on account of such joint lambardár;

(17.)—Suits by co-sharers against lambardárs, or by proprietors or lessees against mudfidárs or assignees of revenue, for compensation on account of exaction in excess of revenue or rent, or on account of the refusal of receipts or acknowledgments for revenue or rent paid or tendered;

(18.)—Suits by mudfidárs or assignees of revenue for arrears of revenue.

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Sections 84-91.)**Grades of Courts.*

Grades of Courts for the purposes of this Act. **84.** For the purposes of this Act, the Courts of Revenue shall consist of six grades of Courts, namely—

- (1.)—The Court of the Assistant Collector of the second class;
- (2.)—The Court of the Assistant Collector of the first class;
- (3.)—The Court of the Deputy Collector;
- (4.)—The Court of the Collector;
- (5.)—The Court of the Commissioner;
- (6.)—The Court of the Judicial Commissioner.

85. The Chief Commissioner of Oudh shall have power to declare to which of the first three grades any Assistant Commissioner shall belong, and to invest any Tahsildar with the powers of any of the same grades.

Deputy Commissioner to have Collector's powers. **86.** The Deputy Commissioner shall exercise the powers of a Collector under this Act.

87. The Chief Commissioner of Oudh may invest any officer employed in making or revising settlements of revenue with all or any of the powers of a Collector, or Deputy Collector, or Assistant Collector, under this Act.

88. The Court of the Assistant Collector of the second class shall have power to try and determine suits of the descriptions mentioned in clauses (1), (2), (7), (12), (15), (16), (17) and (18) of section 83, of which the subject-matter does not exceed one hundred rupees in value or amount.

89. The Court of the Assistant Collector of the first class shall have power to try and determine suits of the descriptions referred to in the last preceding section, of which the subject-matter does not exceed five hundred rupees in value or amount.

90. The Court of the Deputy Collector shall have power to try and determine suits of every description of which the subject-matter does not exceed five thousand rupees in value or amount.

91. The Court of the Collector shall have power to try and determine suits of every description and of any amount, and to hear appeals from the decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure as applied by this Act) from the

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Sections 92-95.)*

orders of the Assistant Collectors, and, in suits under clauses (2), (5), (9), (11), (14), (15), (16), (17) and (18) of section 83, from such decisions and orders of the Deputy Collectors.

Whenever the state of the public business requires it, the Chief Commissioner may invest any Deputy Collector with the powers of a Collector for the trial and determination of suits and appeals under this Act, other than appeals from the decisions of such Deputy Collector, *and with the powers of a Deputy Commissioner to hear applications under sections 24 and 43*, and may invest any Collector with all or any of the powers of a Commissioner under this Act.

92. The Court of the Commissioner shall have Jurisdiction of Commissioner. power to hear and determine appeals from decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Collectors and Deputy Collectors, except as otherwise provided in sections 91 and 95 []. XIV of 1882.

[and 102]

93. The Court of the Judicial Commissioner shall have power to hear and determine appeals from the decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioners, and also *second* appeals, as provided in the said Code, from the decisions passed in *first* appeal by the Collectors and by the Commissioners. XIV of 1882.

Appeals.

94. The memorandum of appeal, prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, shall be presented to the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause, to the satisfaction of such Court, for not having presented the memorandum within such period; that is to say, thirty days if the appeal lie to the Collector, six weeks if the appeal lie to the Commissioner, and ninety days if the appeal lie to the Judicial Commissioner. XIV of 1882

The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made.

Second appeals shall be presented in the Court of the Judicial Commissioner within the period hereinbefore fixed for the presentation of *first* appeals.

95. In suits under clauses (2), (5), (9), (11), (14), (15), (16), (17) and (18) of section 83, and in appeals from decisions in such suits tried and decided by a Commissioner or Col-
No appeals, except in certain cases, from Collector's decree for money below one hundred rupees.

*The Oudh Rent Bill.**(Chapter VII.—Jurisdiction of the Courts.—Sections 96-99.)*

lector, if the amount sued for does not exceed one hundred rupees, the judgment shall be final, except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a tenant, or any question relating to a title to land or to some interest in land, as between parties having conflicting claims thereto, has been determined by the judgment.

In such case the judgment shall be open to appeal in the manner provided in this Act.

Distribution of Business.

96. The Deputy Commissioner may direct the Deputy Commissioner business in the Courts subordinate to him, whether or not they hold their sittings in the same place, to be distributed among such Courts in such way as he shall think fit.

Transfer of Suits and Appeals.

97. The Commissioner or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself, or refer it for trial to any other such Court competent to try the same.

The Commissioner may also withdraw any appeal instituted in the Court of any Collector subordinate to him, and try the appeal himself, or refer it for trial to the Court of any other Collector in his Division.

98. The Judicial Commissioner may order that any suit or appeal which shall be instituted in or presented to any Court subordinate to him shall be transferred to any other such Court competent to try or hear the subject-matter of the same.

Miscellaneous.

99. In the performance of their duties under this Act, the Collectors shall be subject to the direction and control of the Commissioners and of the Chief Commissioner; and the Deputy Collectors and Assistant Collectors shall be subject to the direction and control of the Deputy Commissioners to whom they are respectively subordinate:

Provided that nothing in this section shall empower the Chief Commissioner or any Commissioner or Deputy Commissioner to interfere in any way not authorized by this Act with any decision or order in a suit.

*The Oudh Rent Bill.**(Chapter VIII.—Limitation of Suits.—Sections 100-106.)*

100. All suits which, under the provisions of this Act, may be brought by or against landlords, may be brought by or against managing agents or talisildars of kham estates, managing agents or talisildars of estates held under kham management, whether such estates are the property of Government or not.

101. No sharer in a joint estate, under-proprietary or other tenure, in which a division of land has not been made among the sharers, shall exercise any of the powers conferred by this Act in regard to the recovery of arrears of rent, enhancement of rent, ejectment of tenants, or distress, otherwise than through a manager authorized to collect the rents on behalf of all the sharers.

In pattidari estates or tenures such powers shall be exercised only through a lambardar, or through the pattidar who is entitled to collect the rents of the patti.

102. Any person in possession of land occupied by a tenant, without consent of the landlord, shall be liable for the rent of such land at the rate payable in the previous year, or, if no rent was payable in the previous year, at such rate as the Court may determine to be fair and equitable, and he shall not in respect of such land have any of the statutory privileges conferred by this Act.

103. The Courts may sit for the hearing and determining suits and appeals, and for disposing of other business under this Act, in any place within the local limits of their respective jurisdictions:

Provided that every hearing and decision shall be in open Court, and that the parties to the suit, or their authorized agents, shall have had due notice to attend at such place.

CHAPTER VIII.

LIMITATION OF SUITS.

104. Except as herein otherwise provided, and subject to the provisions as to legal disability contained in any law for the limitation of suits for the time being in force in Oudh, all suits under this Act shall be instituted within one year from the date of the accruing of the cause of action.

105. Suits for the delivery of pattas or the counterparts of pattas may be instituted at any time during the tenancy.

106. Suits for the recovery of arrears of rent or of revenue or of a share of profits shall, except in the case mentioned in

*The Oudh Rent Bill.**(Chapter IX.—Procedure.—Sections 107-110.)*

section 16, be instituted within three years from the date on which the arrear or share of profit claimed shall have become due.

107. Suits for the recovery of money in the hands of an agent, or for the settlement of accounts or delivery of papers by an agent, may be brought at any time during the continuance of the agency or within one year after its determination, or, in the case of claims legally cognizable at the date of the passing of this Act, within one year after such date.

108. Suits regarding distress under section 74, 78, 79 or 80, and suits regarding the division, estimate or appraisal of the produce of land, shall be commenced within three months from the date of the accruing of the cause of action.

CHAPTER IX.

PROCEDURE.

v of 1882. **109.** The provisions of the Code of Civil Procedure as in force in Oudh shall, so far as they are not inconsistent with the provisions herein contained, apply to all suits, appeals and proceedings under this Act.

110. In addition to the particulars required by section 50 of the said Code to be specified in the plaint, the plaint shall contain the following particulars:—

1st.—The name of the village or estate, and of the parganá in which the land to which the suit relates is situate;

2nd.—If the suit be for recovery of an arrear of rent, or for the enhancement or abatement of rent, or for the ejectment of a tenant, or for contesting a notice of enhancement of rent, or for contesting a notice for the ejectment of a tenant or for the recovery of the occupancy or possession of any land, the plaint shall specify the extent, situation and designation of the land to which the suit relates and, where fields have been marked in a Government survey, the number (if it be possible to give it) of each field;

3rd.—If the suit be for recovery of an arrear of rent or revenue, the plaint shall specify the yearly rent or revenue of the land, the amount (if any) received on account of the year or years for which the claim is made, the amount in arrear and the time in respect of which it is alleged to be due;

4th.—If the suit be for the delivery of a *patta* or the counterpart of a *patta*, the plaint shall specify all the particulars mentioned in section 7.

*The Oudh Rent Bill.**(Chapter IX.—Procedure.—Sections 111-117.)*

111. When in any suit between a landlord and an under-proprietor or tenant the right to receive the rent of the land is claimed by a third person, on the ground that he, or a person through whom he claims, has actually and in good faith received and enjoyed such rent up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him or the person through whom he claims shall be inquired into, and the suit shall be decided according to the result of such inquiry :

Provided always that the decision of the Court shall not affect the right of any party having a legal right to the rent of such land to establish his title thereto in a Court of competent jurisdiction.

112. In all suits under clauses (1), (2), (7), (10) and (11) of section 83 of this Act, the summons to the defendant shall be for the final disposal of the suit.

113. In a suit to recover an arrear of rent, no set-off shall be allowed against the claim, except such amount as may be due to the defendant on an unexecuted decree under this Act against the plaintiff.

114. In any suit under this Act involving a claim to money, the defendant may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the plaintiff's claim, together with the costs incurred by the plaintiff up to the time of such deposit.

Notice of the deposit shall be given to the plaintiff, and the amount deposited shall be paid to him on his application.

No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

115. In any case in which the defendant deposits less than the amount claimed by the plaintiff, nothing in section 114 shall bar the plaintiff from proceeding in the suit for the recovery of the balance.

[116. If a tenant not having a right of occupancy institute a suit against a landlord for the delivery of a lease, or a landlord institute a suit against a tenant not having a right of occupancy for the delivery of the counterpart of a lease, and the parties do not agree in respect of the particulars which such lease or counterpart is to contain, the Court shall dismiss the suit, unless evidence in writing is produced which shall satisfy the Court that an agreement has been entered into between the parties in accordance with which such lease or counterpart ought to be delivered.]

117. The local inquiry described in section 392 of the Code of Civil XIV of 1882. Procedure may also, if he think fit, be made by the Collector in person or other officer presiding in the Court, and the provisions of the said Code regarding local inquiries shall apply to such inquiries made by such Collector or other officer.

In such cases the Collector or other officer as aforesaid, after completing the inquiry, shall

*The Oudh Rent Bill.**(Chapter IX.—Procedure.—Sections 118-123.)*

record on the proceedings such observations as he thinks fit, and the observations so recorded shall be received as evidence in the suit.

As to Decrees.

118. No process of execution shall be issued Time within which on a decree under this Act execution may be had. *when the application for the issue of such process is made* after the lapse of three years from the date of such decree, unless the decree be for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the law in force as to the period allowed for the execution of decrees of the Civil Courts.

119. When a decree for money is made in any Immediate execution suit under this Act, the of decree. Court may, on the oral application of the party in whose favour the decree is passed, direct immediate execution thereof in the manner described in section 256 of the *Code of Civil Procedure*.

XIV of 1882.

120. When a decree in favour of the plaintiff is made in a suit for an enhancement of rent, the Court shall declare the date from which such enhancement shall take effect.

121. If the decree be for the delivery of Enforcement of decree for delivery of papers or accounts, it may be enforced by the imprisonment in the civil jail of the party against whom it is made or by the attachment of his property, or by both imprisonment and attachment.

The imprisonment and attachment may be continued until he complies with the terms of the decree :

Provided that no person shall be imprisoned under this section for a longer period than six months.

122. A decree for the delivery of a *patta* or of Decrees for lease or the counterpart of a *patta* counterpart to specify shall specify all the particulars mentioned in section 7, and such other particulars in accordance with the provisions of this Act as to the Court seem fit.

123. If the decree be for the delivery of a Court after decree *patta* or the counterpart of may grant lease or a *patta*, and the party or counterpart, in case of defendant's refusal. or counterpart neglects or refuses so to do, the Court may grant a *patta* or counterpart in conformity with the terms of the decree, and such *patta* or counterpart shall have the same effect as if delivered by the party against whom the decree was passed.

*The Oudh Rent Bill.**(Chapter X.—General.—Sections 124-129.)*

124. If the decree be for money, no process in execution shall issue against moveable property of the judgment-debtor, other than attachment of such property, unless satisfaction of the decree cannot be obtained against his moveable property.

125. If the decree be for an arrear of rent due in respect of an under-proprietary right, the interest of the judgment-debtor in such right may, subject to the provisions of this Act, be sold in execution of the decree.

[Provided that no such sale shall be allowed unless it appear to the Deputy Commissioner that satisfaction of the decree cannot be made in the manner referred to in sections 243 and 244 of the Code of Civil Procedure.]

If it appear to the Court that such satisfaction can be made, the Court may exercise the powers given to it by the said section 243, although no application has been made by the judgment-debtor.

The Deputy Commissioner may be appointed manager of the property under the same section. When he has been so appointed, he may exercise, for the satisfaction of the decree against the judgment-debtor, all the powers which, under any law in force in Oudh, he might have exercised for the recovery of an arrear of revenue due by such judgment-debtor to the Government.]

126. No beneficial lease or other incumbrance hereafter created on his tenure by any under-proprietor shall be valid, in the event of the sale of his rights and interests in execution of a decree for arrears of rent, unless such incumbrance has been registered, under any rules or law for the time being in force in Oudh, within four months after the creation thereof, and not less than thirty days before the date of attachment of such rights and interests.

127. When an under-proprietor creates any such incumbrance and fails to pay to the proprietor all or any part of the rent subsequently accruing in respect of the land subject to the incumbrance, the incumbrancer shall be liable to pay to the proprietor the whole or such part as aforesaid of the said rent, unless the proprietor has agreed in writing to waive any claim which he might otherwise have made on the incumbrancer under this section.

128. When land is sold in execution of a decree under this Act, and the land or any lot thereof has been knocked down to a stranger, any co-sharer, other than the judgment-debtor, may, before sunset on the day of sale, claim to take the land or lot, as the case may be, at the sum at which it was so knocked down.

If the land be an under-proprietary tenure, a like claim may also be made by the proprietor.

Any claim made under this section shall be allowed: Provided that, if a claim to the same land or lot be made by a proprietor as well as by a co-sharer, the claim of the co-sharer shall be preferred: Provided also that no claim shall be allowed unless the claimant fulfil all the conditions of the sale binding on a purchaser.

CHAPTER X.

GENERAL.

129. *The Local Government, on being satisfied that any estate is suffering from grave mismanagement to an extent which has,*

General powers reserved to the Local Government.

*The Oudh Rent Bill.**(Chapter X.—General.—Sections 130-132.—Schedule A.)*

since the first of January, 1886, materially deteriorated the condition of the tenantry, or diminished the area of cultivation, may, with the previous sanction of the Governor General in Council, appoint an officer for the revision of the rents of the estate and their authoritative settlement for a period not exceeding ten years.

130. Notwithstanding anything contained in the Indian Registration Act, 1877, patta granted for any term not exceeding seven years by landlords to tenants to whom sections 35 and 35(A) of this Act apply shall be deemed good and valid without the same being registered.

131. The provisions of sections 4, 35, 35(A), 36, 36(A), 36(B), 36(C), 36(D), 36(E), 36(F), 36(G), 36(I), and 38(A) shall not extend to the areas specified in Schedule D attached to this Act, but the Local Government may hereafter, from time to time, by a notification published in the official Gazette, extend these provisions, or any of them, to any area hereby excluded.

132. The Local Government may, from time to time, make rules consistent with this Act for the guidance of all persons in matters connected with the enforcement of this Act.

[Act XII, 1881, section 211.]

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

SCHEDULE A.*

(See section 15.)

I, A. B., of _____, &c., solemnly declare that I did personally [or by my agent C. D.] on the _____ day of _____ tender payment to E. F. at _____ (the place where the rent of the lands at _____ held [or cultivated] by me under or from or jointly with] the said E. F. is usually payable) of the sum of rupees _____ as and for the whole amount due from me in respect of the rent of the said lands from the month of _____ to the month of _____ both inclusive. I further declare that the said E. F. refused to accept the said sum so tendered [or to give me a receipt in full, forthwith, for the sum so tendered]. And I declare that, to the best of my belief, the sum of rupees _____ so tendered, and which I now desire to pay into Court, is the full amount which I owe the said E. F. on account of the rent of the said lands from the month of _____ to the month of _____ both inclusive, and that I owe the said E. F. no further sum on account of the rent of the said lands.

I, _____ the person named in the above declaration, do declare that what is stated therein is true to the best of my information and belief.

If this declaration is made by an agent, it must be altered accordingly.

*The Oudh Rent Bill.**(Schedule B.—Schedule C.—Schedule D.)*

SCHEDULE B.*

(See section 15.)

Court of the _____ of _____, Dated the
day of _____ 18 ____.

To *E.F.*, of _____, &c.

With reference to the within declaration, you are hereby informed that the sum of rupees _____ therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or your duly authorized agent on application. And take notice that if you have any further claim or demand whatsoever to make against the said *A. B.* in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

SCHEDULE C.

(See section 59.)

Office of _____, officer appointed to sell distrained property.

A. B.—*Distrainer.*

Whereas the said *A. B.* has applied to have the distrained property specified below sold for the recovery of _____ alleged to be due to him as arrears of rent, you hereby are required either to pay the said sum to the said *A. B.* or to institute a suit before the Court to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this _____ day of _____ 18 ____.

SCHEDULE D.

(See section 131.)

* This to be by endorsement on a copy of the declaration under Schedule A made by the person paying the money into Court.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill, which has been prepared by the Government of the North-Western Provinces and Oudh, is to secure to tenants in Oudh some protection against arbitrary eviction from their holdings and enhancement of their rents, and to place on a clear footing their rights to make improvements on their holdings and to receive compensation for improvements so made. Under the law as it stands they are absolutely unprotected against enhancement and eviction, provided that the landlord observes certain easy formalities in raising rents or in issuing his notices of ejectment. Every field in a tenant's holding can be shifted on the close of each agricultural year at the will of his landlord, and there is no limit to the rise of rents.

The Census Statistics show that the pressure of the population on the land in Oudh is very great, being 119 to the square mile, and the large number of notices of ejectment annually issued and the steady increase from 23,400 in 1876 to 93,200 in 1882 afford reason for believing that they are used as instruments for the undue enhancement of rent. Enquiry has shown that this belief is not unfounded, and that the effect of the existing law on a population dependent mainly on agriculture for its subsistence must lead at no distant date to the deterioration of agricultural industry and the impoverishment and degradation of the bulk of the people.

It is not proposed to introduce a system of heritable occupancy-right acquired by prescription, such as prevails in the North-Western Provinces, but to accept contract as the basis on which transactions between landlord and tenant are to be regulated. The tenant, however, who has no other means of subsistence open to him, is no match for the landlord in a thickly populated agricultural province, and with a view to place the parties on more equal terms the Bill imposes the following restrictions on free contract between them.

Sitting tenants may hold the land they at present occupy at the rent now paid from the date of the last change in their rent or in the area of the holdings.

The enhancement of rent permissible at the expiry of each statutory period is to be limited to $6\frac{1}{2}$ per cent, or one anna in the rupee, on the current rental; the sitting tenant to have the equity of renewal at rent within that limit.

At the end of that period it is proposed to allow the landlord to enhance the rent of the sitting tenant to such sum as he and the tenant may agree upon within a limit of one anna in the rupee, or $6\frac{1}{2}$ per cent, on the rent previously paid.

At any time after the expiry of the statutory period a landlord who has not made terms with the sitting tenant may proceed either by notice of enhancement or by notice of ejectment at his discretion. If he proceeds by notice of enhancement the enhancement must be within the limit above given. If the tenant accepts a new period of terms, if the tenant refuses the proposed enhancement, the holding will become vacant, but no higher rent can be recovered from the next tenant than $6\frac{1}{2}$ per cent, above the old rent on the same holding. If the landlord proceeds by ejectment, leaving the tenant no option of renewal, compensation for improvements will be given up to one year's rent at the rate last paid, and the landlord and his heirs will apply to the rent recoverable from the next tenant. In both cases tenants will be entitled to sue for any dispossession with compensation for improvements. The right of renewal is to be preserved to the tenant in occupancy. On the death of a tenant in occupancy his heirs will be entitled to hold on, on the same terms, to the expiration of the statutory period, or a whole or a cycle of years, but must then surrender the holding to the landlord, who will have the right of payment of the compensation for improvements found to be due to him.

These provisions are experimental, and power is therefore given to the Local Government from time to time, within periods of not less than seven years in any district or part of a district, to vary the limit of enhancement. Although there has been a considerable rise of prices in the past fifteen years, there may not be such a rise in the same time, and in that case the limit of $6\frac{1}{2}$ per cent, might be unfair to the tenant. In other cases the limitation might conceivably operate to the prejudice of the landlord.

The condition in the taluqdār's *sanad*—that he will promote the agricultural prosperity of his estate—is so vaguely worded as to leave the Government and the taluqdār alike uncertain as to the grounds on which Government should interfere between him and his tenantry. To put the matter beyond doubt power is given to Government to step in when it is satisfied that an estate is suffering from grave mismanagement, which has since the present year materially deteriorated the cultivation of the tenantry or diminished the area of the cultivation. The exercise of this power is subject to the previous sanction of the Governor General in Council, and the consequences of it are not the forfeiture of the estate, but an authoritative settlement of rents for ten years.

A similar power of settling rents was conferred in the Bengal Tenancy Act of 1885, the Local Government being authorized to interfere in the interests of public order or of the local welfare.

The detailed reasons for the alterations in the present Act necessary to carry out these proposals will be found in the annexed letter from the Local Government.

The 23rd January, 1886.

J. W. QUINTON.

No. 177 R. of 1886.

From

J. WOODBURN, Esq., SECRETARY TO GOVT., N.-W. P. AND OUDH,

IN THE OUDH REVENUE DEPARTMENT,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,

REVENUE AND AGRICULTURAL DEPARTMENT.

Dated Allahabad, the 15th January, 1886.

In compliance with the request conveyed in your letter No. 121 (Revenue), dated the 9th ultimo, I am directed to submit a draft Bill to amend the Oudh Rent Law.

2. The general principles on which the Lieutenant-Governor and Chief Commissioner proposes to amend the Rent Law in Oudh are fully detailed and explained in the letters of this Government, No. 5931 of the 21st December, 1885, and No. 723 of the 17th May, 1886. In this letter submitting the draft Bill it seems sufficient to explain the reasons which have led to the various minor alterations of the present Rent Act.

3. The Bill takes the form of a revised edition of the existing Act. It is very probable that in phraseology and arrangement Act XIX of 1868 might be greatly improved; but it is only in Chapters IV and V that any material change is needed to give effect to the several proposals which have been made by the Lieutenant-Governor. And since the Act is well understood by and familiar to the Rent Courts and the people, it appears advisable to make no more alterations of it than are necessary to a clear and correct statement of the principles which are hereafter to govern the relations of landlord and tenant. But the opportunity has been taken to remove any difficulties that have been found by the Courts in interpreting certain other parts of the existing law. Additions to existing sections of the Act and all new sections are printed in italics; and any portions of existing sections which it is proposed to omit have been printed marginally in brackets.

4. I am now to proceed to a specific statement of the alterations made in the Act.

5. Section 2 repeals Act XIX of 1868, but maintains such notifications and rules made under it as are consistent with the new Act.

6. In section 3 a clause has been added to the definition of "rent," to make it quite clear that the word covers the rent of an under-proprietor who may not be personally in the use or occupation of the land in his tenure. A clause has been added to the definition of "tenant," to show what portions of the Act are applicable to a third party. A collector of rents shall acquire none of the statutory privileges of a duly registered tenant but is a tenant of the lessor for many purposes. A definition of "prescribed" has been inserted, which is taken from the Bengal Tenancy Act, 1855.

7. Section 4 is substituted for the corresponding section of the present Act. It is necessary to provide that no contract before or after the passing of the Act shall deprive a tenant of that protection against enhancement and ejectment which it is the special object of the new law to give. The Lieutenant-Governor has decided, after careful consideration of the point, not to recommend that there shall be so far as the law is concerned the execution of any special agreement which shall give a tenant a longer occupancy than the statutory period of seven years; but it is essential that agreement for any shorter term shall be barred, and I am to ask that this point may receive particular attention when the draft is examined. The proposal is that the computation of a holding may be settled between landlord and tenant for a longer period than seven years by agreement, but that no contract shall defeat the statutory limit of enhancement. He is unwilling to interfere more than is absolutely necessary with any existing contracts, and where the term of any contract present in force exclude the tenant from making improvements or claiming compensation for such as he may have already made, he would not set the contract aside. So far as the Lieutenant-Governor's information goes, the number of such contracts is not great, while in many such cases it may be presumed that the improvements will have been made upon special terms and conditions.

8. As regards clearing leases the Lieutenant-Governor is of opinion that they must be left to be arranged by landlord and tenant without interference by the State. The conditions under which they are taken vary considerably in different parts of the country, and are in fact effectively controlled by local circumstances and local custom. A proviso has accordingly been added to this section, the terms of which have been taken from the first proviso to section 178 of the Bengal Tenancy Act.

9. Section 5 (A), empowering a landlord to confer occupancy-rights, has been inserted in accordance with the wish of His Excellency the Governor General in Council, as conveyed in paragraph 15 of your letter No. 252R., dated 12th April, 1884.

10. In section 7 of the present Act the word "lease" is used for the written memorandum of the terms of a tenant's holding. It is scarcely applicable to the record of the terms of a holding conferred by Statute, and the Lieutenant-Governor would prefer to use the word "patta." It is again inconsistent with a statutory tenure that the record of it should contain any conditions except those imposed by the Statute, and the clause of the present section 7, authorising the entry in the patta of any special conditions of the lease, should be omitted.

11. Section 11 of the present Act authorises the cancellation of a lease by decree. It seems desirable that the whole of the provisions in regard to the determination of tenancies should be placed together, and this section, with the material alterations which will be subsequently explained, has been transferred to the chapter on ejectments as 43(A).

12. Section 20 of the Rent Act contains the provincial rule regarding the remission of rent, where it is proved to the Rent Court that from unforeseen calamity the tenant is unable to pay the entire demand. A proviso is attached to the section, which prevents a tenant with a five years' lease from claiming the benefits of this section. If this proviso were retained under the amended Act, which is to give all tenants a statutory occupancy for seven years, the effect would be to nullify the section altogether. The question is, therefore, whether the entire section should be struck out, whereby the Courts would lose their power of making allowances in rent-decrees for inevitable calamities, or whether the section shall stand without its proviso, whereby remissions of rent would cease to be in any case dependent on remissions of revenue. The latter course appears to the Lieutenant-Governor to be on the whole likely to be better for the interests of both landlord and tenant. If, as the Lieutenant-Governor believes, it is not expedient to withdraw from the Courts all power to take account of serious calamities in decreeing arrears of rent, in that case to provide that this power shall only be used when revenue has been remitted is to shackle it with an awkward and hardly logical condition. The corresponding provisions of the rent law in the North-Western Provinces are contained in section 23 of Act XII of 1881 and the rules which have been prepared under it. When the crops have been injured by hail or drought in a village of the North-Western Provinces, the Collector has to apply for a remission of revenue before he can move in the matter of rents; and when that is obtained he enforces a remission of rents, equivalent to double the remission of revenue, by a process which is not always very well adjusted or duly proportioned. There is by law no similar rule in Oudh. Neither in the Revenue nor in the Rent Acts is any authority given to the Deputy Commissioner to carry on, distribute and enforce among the rents of the tenantry the remission which has been made in the landlord's revenue. It is true that under circular orders, issued administratively (of which an extract is given in the footnote), Deputy Commissioners have insisted on remissions of rent as a consequence of remissions of revenue; and the Lieutenant-Governor is not prepared at once to cancel those instructions. Nevertheless, when it comes to framing legal provisions, he would prefer to leave, at any rate experimentally, the adjustment of rent abatements between landlord and tenant as much as possible to the parties concerned, subject only to a Judge's discretion in extraordinary cases. The fact of the revenue remission is perfectly well known, and any tenant who is pressed to pay upon crops that have been seriously damaged has only to demand and let his claim to relaxation of the rent be considered by the Rent Court. So long as a tenant was liable to summary and arbitrary ejectment, undue pressure for the payment of rent could no doubt be made; but now that all tenants will be protected in the occupation of their holdings, the Lieutenant-Governor considers that with an appeal to the Rent Court, such as is given by section 20, they may be left to make their own arrangements with their landlords on such occasions as those contemplated by the section.

13. The proviso in section 20 is to some extent based on a distrust of the Courts, since they might exercise the power without sufficient cause, and hamper the landlord by remissions of rent for which he has received no compensating remission of revenue. The landlord, however, has always the remedy of appeal from a decree which he considers unfair, and if the case can be supposed possible of calamity so considerable as to justify large remissions of rent by the Court, although no previous remission of revenue had been given, no Deputy Commissioner would refuse to recommend a corresponding remission of revenue. There is again the risk that the Courts might force remissions of revenue by giving remissions of rent; but it must be assumed that the Courts will proceed with due care and upon sufficient evidence in remitting rents, while in Oudh they are likely always to keep in view the effect of their decrees upon the revenue. Moreover, a landlord is certain to contest any unfair reduction of his rent-demand; for a remission of revenue is never sufficient to compensate him, and his appeal is to the Commissioner or Deputy Commissioner, who is directly concerned with the collection of revenue. The Lieutenant-Governor recommends,

Any landlord who receives a remission of Government revenue will be bound, in proportion to the extent of the remission, not to take, either through himself or through a lessee, and to restore if he has so taken, rent for the crop on account of which the remission is granted. (From Circular Orders of 7th January, 1873.)

therefore, that the section be maintained with the omission of the proviso. The draft proposes to insert "materially" before "diminished", to indicate to the Courts that remission is not to be given for any but considerable loss.

14. Sections 35 and 36 of the present Act will be entirely superseded, and the reference to them in section 20 may be excised.

15. In section 21 (relinquishment of the holding) the last clause of the first sentence may be omitted. The Lieutenant-Governor wishes to make a distinction between relinquishment and abandonment. If tenants are to have considerable fixity of tenure, it is right that the landlord should have fair notice of relinquishment of holding, that he may make suitable arrangements for a new tenant. The date for notice of relinquishment has accordingly been antedated to the 15th of March, and at this time lease to another tenant can hardly have been given. It has been prescribed that the notice shall be in writing.

16. A section has been drafted in regard to abandonment [21 (B)], adopted from section 87 of the Bengal Tenancy Act.

17. In the sections on compensation for tenants' improvements considerable changes have been made. Section 22 of the present Act directs that the tenant shall be entitled to compensation for improvements whenever his rent is enhanced. This provision has, so far as the Lieutenant-Governor can ascertain, remained a dead letter. Under a system by which the adjustment of rent between landlord and tenant was left entirely to private contract, any enhancement of rent, so long as the tenant chose to stay, probably took into consideration the tenant's expenditure on the improvement of his holding. For the future at least no such provision is needed. The enhancement at the close of a statutory period of tenancy is a statutory enhancement, and will have effect whether or not the tenant has in the course of his expiring period of tenancy effected an improvement which has added to its value. The clauses in section 22, providing for compensation on enhancement, may therefore be left out.

18. The principle on which compensation is calculated under the present Act is solely that of the outlay of the tenant. The last sentence of the section bars right to compensation for improvements which were made more than thirty years before the date of claim, and in practice the procedure of the Courts is to make an estimate of the probable outlay, assume that the improvement will last for thirty years, and award to the tenant the sum which in that proportion represents its unexpired value. Thus, if a well is believed to have cost Rs. 500 ten years ago, the Court will award to the tenant Rs. 200. The principle is by no means a just one, for the landlord is exposed to great exaggerations by the tenant of his original outlay, and where the improvements are of old standing these statements are difficult to check. The Lieutenant-Governor considers that the principles laid down in section 83 of the Bengal Tenancy Act are not only in themselves more fair, but more simply and readily applied by the Courts, for it is seldom difficult in any village to ascertain the difference in letting value due to irrigation, and a well is the most common of all improvements in Oudh. A section has been accordingly introduced from the Bengal Act, section 25(A), and the references to outlay and the period of construction omitted from section 22.

19. It is the recognised custom of the province that a tenant cannot make an improvement of a permanent character without the consent of the landlord. So long as the tenant held on a yearly tenancy at the will of the landlord, this consent was obtained on terms which were sometimes very harsh. I am to refer, for example, to paragraph 127 of Colonel Erskine's report of the 1st June, 1883 (page 277 of the second volume of papers on the condition of the Tenantry in Oudh). Now that the ordinary tenancy is for seven years, it is necessary for the agricultural progress of the country that the landlord's consent to improvements shall not be unreasonably withheld. It has accordingly been proposed in the Bill that the tenant shall have the right of applying to the Deputy Commissioner should the landlord refuse his consent, and that the Deputy Commissioner, after hearing the landlord's objections, shall pass such orders as may be fair and equitable.

20. On the other hand, it is right, when enhancement is otherwise carefully restricted, that arrangement should be made for the assessment of a fair enhancement on holdings the produce of which has been increased by a landlord's improvement, and sections 26 and 36 (K) of the Bill have been drafted for the assistance of landlords in this matter.

21. Section 25 of the present Act is believed to have been of very little, if any, value. It has, however, been retained in section 25 (A) of the Bill in a shorter form, taken from the second clause of section 83 of the Bengal Tenancy Act.

22. Chapter III of the Oudh Act refers to commutation and payment of rents in kind. The Lieutenant-Governor proposes to omit the last two clauses of section 28 and the whole of section 29. The commutation of grain-rents is an exceedingly delicate and difficult business, while the prevailing opinion as to the advantages and disadvantages of commutation is apt to vary greatly, the authorities leaning sometimes on one side, sometimes on the other. It can hardly ever be expedient that the Government shall interpose, during the currency of a settlement, to determine officially a question of this nature, which is essentially connected with local circumstances and conditions of agriculture that are best adjusted by mutual consent; and, since, in fact, the authoritative commutation of rents

is hardly known in Ondh, the Lieutenant-Governor would prefer to leave it, by law, to private arrangement between landlord and tenant, except, when a settlement of revenue is in progress. The transition from rents in kind to cash-rents is gradually spreading with the improvement of agriculture, and the process should be left to its natural and spontaneous course.

23. Chapter IV of the Act deals with the enhancement and settlement of rent. So far as it concerns the rent of tenants with a right of occupancy, they are left untouched. In the two sections, 35 and 36, of the Act are contained the whole of the provisions of the present law in regard to the rent of other tenants. To introduce the scheme sketched in paragraph 69 of my letter of 21st December, 1883, the sections numbered 35 to 36 (K) have been substituted for them in the Bill. They give every tenant a statutory right to occupy his holding for seven years, with a new period beginning from every change in rent or area by the landlord, and at the end of every period of tenancy they give him the preferential claim to continue in his holding at a rent that cannot be more than 6½ per cent. in excess of the previous rent, or, if he be ejected, to be paid compensation for disturbance. In short, the landlord cannot disturb the tenant for seven years, and if after that period he desires to eject he must pay compensation. In no case can enhancement of rent, whether upon the sitting tenant or his successor, exceed 6½ per cent. of the old rent; but if the sitting tenant will not agree to an enhancement thus limited he must quit without compensation. The new sections also provide that enhancement shall be by notice; they prescribe a procedure for contesting the notice; and detail the liabilities of the tenant, when he retains or vacates the holding, with or without objection to the notice (clauses 1, 2, and 4, paragraph 69, above quoted). The rights of a tenant are, however, to be personal, and provision has been made in sections 36 (I) and 36 (H) that the heir of a tenant who dies shall retain the holding only till the expiry of the statutory term current at the time of his death; and, subject to any claim by the heir to compensation for improvements, the landlord is left free to let the holding to any person at any rent which may be arranged (clause 6, paragraph 69). The new tenant under section 35 (A) then acquires statutory rights similar to those enjoyed by his predecessor.

24. In section 36 (J) power has been taken by the Local Government to vary the limit of enhancement at stated intervals (clause 3, paragraph 69).

25. In Chapter V of the Act are the provisions for ejectment and the determination of tenancies. In this there has again been much addition and, for the sake of clearness, some re-arrangement of the sections.

26. Section 37 of the Bill reproduces section 41 of the Act unchanged, and states that a tenant with a right of occupancy, and in certain other cases, may be evicted only by a decree for ejectment. Among these tenants is included, by the present Act, a tenant under a special agreement. A tenant evicted by decree is not entitled to the compensation for disturbance given to the statutory tenant of the Bill. The Lieutenant-Governor is of opinion that the section should continue to cover the case of a tenant under special agreement.

27. Section 38 of the Bill is with some alteration section 12 of the Act. It covers the case of all other tenants, and permits their eviction either by a decree for ejectment under section 13 (A) of the Bill, or by an application where decreed arrears of rent remain unpaid, or by the notice of ejectment prescribed by the present Act. The application for ejectment for arrears has been taken from section 35 of the North-Western Provinces Rent Act (XII of 1881), and is a simpler procedure, which the improved position of the tenant justifies, than the application in execution of decree allowed by the present Act.

28. If the landlord proceeds by notice he is required by section 38 (A) of the Bill to deposit the compensation for disturbance, which was part of the scheme of the letter of December, 1883 (paragraph 69, clause 4).

29. In section 39 of the Bill (13 of the Act), which describes the details to be given in the notice, the only important change is that the time of service is put much earlier in the year (15th of November instead of 15th April). Tenancies will now be of seven years' duration, and it is very desirable that notice should be given in sufficient time to admit of all claims on the ground of improvement or other objections being fully sifted and decided before the expiry of the year.

30. Section 40 of the Bill (section 37 of the Act) then details the grounds on which the notice of ejectment may be contested. To the grounds given in the Act have to be added those which the new provisions in the Bill require. The notice may have been issued before the seven years of the statutory tenancy have expired, or the compensation for disturbance may have been deposited only in part or not at all. In sections 40 (A) and 40 (B) of the Bill the tenant is required, if he has any claim to compensation for improvements, to give a specific statement of his claim, and the Court is to determine it before it allows eviction. From the ambiguous language of the Act there have been contradictory rulings in the Rent Courts of Ondh as to the liability of the tenant to eviction before receipt of compensation due to him for improvements. It was clearly the intention of section 22 that he should be compensated before he was removed, and this is definitely expressed in the Bill.

31. Sections 41 and 42 of the Bill represent sections 44 and 45 of the Act with such alterations as the provisions of the preceding sections or experience in the working of the

present Act require. In section 42 of the Bill a clause has been inserted, which was much wanted, enabling the Court to give assistance to the landlord, when needed, to evict a tenant who has contested a notice unsuccessfully. These sections contain the only provisions by which a landlord can remove a tenant of bad character, and no tenant is so likely to resist any action by the landlord himself. If assistance may be properly asked when the tenant has not contested the notice at all, it is more needed when the notice has been contested without valid ground of objection. The section in its present form follows the provision of section 40 of the North-Western Provinces Rent Act.

32. Section 43 of the Bill has been taken, as already explained, from the Rent Act of the North-Western Provinces.

33. Section 43(A) is the provision which the Lieutenant-Governor would substitute for section 11 of the Act, in regard to the terms on which a tenancy may be determined by a decree for ejectment. Section 11 bases it on a failure to perform or observe any of the stipulations of the lease or patta; but the patta of a statutory tenant will not contain any special stipulations, and when such a tenant defaults in his rent the landlord's process will be under section 43 of the Bill.

Even a statutory tenant, however, should be liable to ejectment if he uses his holding in a manner which renders it unfit for the purposes of his tenancy, and provision to that effect, taken from section 44 of the Bengal Tenancy Act, has been introduced in section 43(A) of the Bill. Moreover, many statutory tenants will hold on grain-rents; and as the amount of the landlord's receipts depends on the area the tenant cultivates, the landlord should be ensured against serious damage by the tenant's deliberate neglect to cultivate. In paragraph 77 of my letter of December, 1883, it was recommended that local custom should be left to decide what extent of failure in cultivation should be followed by forfeiture of the holding. This is the object of the second clause in section 43(A) of the Bill.

Tenants, however, "having a right of occupancy, or holding under an unexpired lease, or special agreement or decree of Court," are protected by section 41 of the Act (37 of the Bill) from eviction, except in execution of a decree for ejectment. The section specifies that a decree for ejectment against a tenant with a right of occupancy shall not be made unless at the date of the decree a decree against him for an arrear of rent has remained for fifteen days unsatisfied; but no definite explanation is given of the conditions under which ejectment may be made of the other classes of tenants specified in the section whether for failure in stipulations in the unexpired lease or special agreement, cessation of the effect of the decree of Court, or other ground for eviction. The Lieutenant-Governor presumes that it has been hitherto left to be decided under the general law whether the grounds for eviction in any such case are or are not sufficient, and that it is unnecessary to give any precise specification. This is, however, a matter on which the Legislative Department will advise.

34. In sections 44 and 45 of the Bill, corresponding to sections 38 and 39 of the Act, the period of the year it stated at which ejectment may take place. A sub-lessee is subjected to a special penalty in section 38(A) of the Bill, and there seems no reason for excepting him from the general rule that ejectment shall take place at the close of the agricultural year. As a statutory tenant he could only then be ejected, and for the same reason the last clause of section 38 of the Act should be omitted.

35. In section 39 of the Act the word *thikadār* has been substituted for sub-lessee.

36. Section 40 of the Act has been practically absorbed in section 43 of the Bill.

37. To this chapter of the Act two sections have been added in regard to *sir*-lands. The Lieutenant-Governor accepts the opinion that in the home-farms of the landlords no statutory rights should be recognised in the tenants who may from time to time be admitted to cultivate in them. The principle is recognised in the Tenancy Acts of the North-Western Provinces and Bengal. Whenever, however, statutory rights are recognised outside the private lands of the *zamindār*, it becomes necessary to define what these private lands are. Hitherto there has been in *Ondh* no special reason for entering as *sir* in the rent-rolls land which is not *sir*; for the change of law now proposed, which is to restrict the arbitrary powers of landlords over all holdings that are outside *sir*, has not been anticipated, and the revision of assessment is still sufficiently distant to make it more convenient for the collection of rent that land let to tenants shall be so recorded. From all that has been reported the village rent-rolls are in this respect, as indeed in most others, very fairly correct; and the Lieutenant-Governor is disposed, therefore, to make a less exacting definition of *sir* than that in force in the North-Western Provinces. The definition of *sir* which is given in section 46 (A) of the Bill is for these reasons less stringent in several particulars than that which is laid down in section 3 of the North-Western Provinces Rent Act. It has been proposed on some authority to adjust this definition on the principle of allowing land to fall into *sir* and again to fall back into ordinary tenancy land by fixing certain periods after which continuous cultivation by the landlord or by a tenant should determine the character of the cultivating occupancy. The rule of the North-Western Provinces is to fix a long period of continuous cultivation by the landlord, and then to make the lands so cultivated a permanent addition to his original *sir*, whether he continues to cultivate or lets to a tenant. The Bengal Act prevents any accession to the present *sir* unless it is recognised by village custom.

The Lieutenant-Governor would have been glad, nevertheless, to admit a proposal which is quite in keeping with the fluctuations of all agricultural enterprise, and the developments and depressions which circumstances frequently induce in agricultural families. No adjustment, however, has been discovered to regulate the recognition of lands as *sir* and their restoration to the normal conditions of tenancy which the landlord will not be able so to manipulate as to exclude from the statutory provisions an area of cultivated land considerably larger than that which he for the time being occupies. For the purposes of the landlord's cultivation, moreover, there is no restriction on its development. When a tenant's holding falls in by his death, it is open to the landlord to occupy it himself instead of letting it to another tenant. Whether, therefore, it is called *sir* or not will merely operate in determining whether the landlord can subsequently let it without initiating the usual statutory privileges in his tenant. After mature consideration the Lieutenant-Governor is of opinion that *sir* to the extent of all present requirements is provided by the definition as it stands in the Bill, that this may, as in the North-Western Provinces and Bengal, be permanently excluded from the operation of the sections which regulate the ordinary holdings of tenants, but that for the future no provision should be made by the law to enable a landlord, by private cultivation for any definite period, to remove permanently any lands from the general operation of those sections.

38. The section 46 (B) of the Bill has been added to meet the case of lessees and mortgagees who during their management have brought lands under their personal cultivation. These are lands which, on the expiry of the lease or redemption of the mortgage, are paying no rent; and unless some express provision is made, the lessee or mortgagee would apparently have not only the statutory rights of a tenant, but be entitled to sit rent-free.

39. In Chapter VI (Distress for Arrears of Rent) the Lieutenant-Governor proposes no change.

40. In Chapter VII (Jurisdiction of the Courts) the change are few.

41. In the preamble of section 83 a small change has been made in the terms of section 93 of the North-Western Provinces Rent Act, excluding definitely the jurisdiction of all Courts other than Courts of Revenue in the classes of cases specified.

In clause 3 it seems unnecessary to limit a suit for enhancement to the case of an occupancy-tenant. A lessee in whose lands there may be large alluvion may be liable to a suit for enhancement.

The last part of clause 4 is unnecessary for reasons stated in an earlier part of this letter.

In clause 9 an addition is necessary from the terms of section 26 of the Bill.

In clause 10 an addition is required by section 21 (A) of the Bill.

42. In section 91 an addition is proposed authorising the Local Government to invest any officer of the grade of a Deputy Collector with the powers of a Deputy Commissioner to hear applications by a tenant under section 24 to make improvements, or of a landlord under section 43 to eject a tenant for arrears of rent.

43. Section 102 of the Act gives summary powers to Deputy Collectors to restore possession which has been illegally disturbed. From orders under this section there is no appeal. Against this section there has been much complaint, and now that the position of the tenant will be comparatively secure it is preferable that the restoration should be by ordinary suit, subject to the usual appeal. For this section of the Act has been substituted a provision enabling the landlord to recover a fair rent for land which has been occupied without his permission. The absence of any such provision has been for many years a frequent cause of notice of ejection. The only course open to the landlord hitherto, when a tenant has added surreptitiously to his holding, has been to eject him, or to attack him by the cumbersome process of a suit in the Civil Court for damages. If the land happened to be mlet in the previous year, the provisions of sections 25 and 36 of the Act prevent the landlord from recovering any rent in the Rent Court.

44. Section 112 of the Act requires that in all suits under the Act the summons to the defendant shall be for the final disposal of the suit. The suit is in many cases intricate, and will hereafter involve and concern tenancies of a longer and more valuable character. It is proposed to limit this provision to specified classes of suits.

45. Section 116 of the Act is no longer consistent with the general provisions of the Bill, and should be omitted.

46. Section 125 of the Act provides that sale of an under-proprietary tenure shall not be made if satisfaction of the decree can be made by management of the tenure under sections 243 and 244 of the Civil Procedure Code of 1859 (or the corresponding sections of the Code of 1882). Management of under-proprietary tenures by the Deputy Commissioner has for some time, however, been recognized as practically impossible. They are generally small; as they come under the Deputy Commissioner's charge, they are usually scattered; and official management can be neither efficient nor economical. If the under-proprietor can give the Deputy Commissioner any anticipation that a private adjustment of

the judgment-debt can be effected by mortgage or otherwise, time can always be given under section 305 of the Code of 1882, and the Lieutenant-Governor's opinion on the whole is that all of the section, except the first sentence, may be without disadvantage omitted.

47. In a concluding chapter (X) of the Bill are entered four new sections.

48. Section 129 reserves to the Local Government authority under the sanction of the Governor General in Council to appoint an officer for the revision of rents in an estate in which from grave mismanagement the condition of the tenantry has been materially deteriorated or the area of the cultivation diminished. This formed the seventh clause of the scheme in paragraph 69 of the letter of 21st December, 1883, and the reasons for the provision have been there sufficiently explained.

49. Under the present registration law all pattas for seven years, for however small a sum, must be registered. The inconvenience of an enforced registration throughout the country would be very serious; and as the pattas of all tenants will be checked by the supervisor-kanungos, registration seems to be unnecessary. The object of registration is practically effected by his verification, and personation will be difficult when the verification is made in the course of his village rounds. It is proposed, therefore, in section 130, to exempt pattas for the statutory period of seven years from the Registration Act.

50. In section 131 reference is made to a schedule, in which will be entered certain tracts which the Lieutenant-Governor proposes to exclude from the general rule of a statutory right to a seven years' holding. It has been explained in paragraph 75 of the letter of December, 1883, that in part of the northern and submontane districts the rent customs are exceptional, the area in cultivation varies with the season, and the rent is separately settled at each harvest. With these circumstances the general proposals of the Bill will not fit in; but in these tracts the population is sparse, and the tenants can command their own terms. A detail of the areas to be scheduled will be forwarded subsequently.

51. In the last section (132) of the Bill power is taken to the Local Government to make any rules necessary under the Act and consistent with it. The terms of the section have been taken from the last clause of section 211 of the North-Western Provinces Rent Act.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th June, 1886, and was referred to a Select Committee :—

NO. 8 OF 1886.

A Bill to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body.

WHEREAS it is expedient to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to amend the law relating to the powers of the said Trustees; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Museum Act, 1886; and

(2) It shall come into force at once.

2. Sections 3, 4 and 5 of the Indian Museum Act, 1876, are repealed.

3. For those sections the following shall be substituted, namely :—

“Incorporation of the Trustees.”

Constitution and incorporation of the Trustees of the Indian Museum.

“3. The Trustees of the said Indian Museum shall be—

- (a) the person for the time being holding the office of Accountant General of Bengal;
- (b) five other persons to be appointed by the Governor General in Council;
- (c) five other persons to be appointed by the Lieutenant-Governor of Bengal;
- (d) five other persons to be appointed by the Council of the Asiatic Society of Bengal; and
- (e) five other persons to be appointed by the Trustees;

and the said Trustees shall be a body corporate, by the name of the Trustees of the Indian Museum, and shall have perpetual succession and a common seal.

“4. All the powers of the said body corporate may be exercised so long and so often as there are **Number of corporators.** **five members thereof.**

“5. If a trustee appointed under section 3 dies, or is absent from India for more than twelve consecutive months, or desires to be discharged, or refuses or becomes incapable to act, **Power to appoint new trustees.**

or becomes Accountant General of Bengal, then the authority which appointed the trustee may appoint a new trustee in his place.”

4. (1) For the purposes of the Indian Museum Act, 1876, as amended by this Act—

(a) the persons nominated by the Governor General in Council under the Indian Museum Act, 1876, and now holding office as Trustees, shall be deemed to be persons appointed by the Governor General in Council under section 3 of that Act as amended by this Act;

(b) the President of the Asiatic Society of Bengal, and the other members of the Council of that Society nominated by that Council under the Indian Museum Act, 1876, and now holding office as Trustees, shall be deemed to be persons appointed by the Council of the Asiatic Society of Bengal under the said section; and

(c) the persons elected and appointed by the Trustees under the said Act, and now holding office as Trustees, shall be deemed to have been appointed by the Trustees under the said section.

(2) The Secretary to the Government of India and the Superintendent of the Geological Survey of India shall cease to be *ex officio* members of the said body corporate.

Power to Trustees to keep collections not belonging to them.

5. Notwithstanding anything in the Indian Museum Act, 1876,—

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(a) the Trustees of the Indian Museum, if they think fit, may, with the previous sanction of the Governor General in Council, and subject in each case to such conditions as he may approve and to such rules as he may from time to time prescribe, assume the custody and administration of collections which are not the property of the Trustees for the purposes of their trusts in that Act mentioned, and keep and preserve the collections either in the Indian Museum or elsewhere; and

(b) in the event of the trust constituted by that Act being determined, collections of which the Trustees have assumed the custody and administration under the foregoing part of this section shall not, by reason of their then being in the Indian Museum, become the property of the Government of India.

And whereas it is provided in the Indian Museum Act, 1876, that the Trustees of the Indian Museum shall have the exclusive possession, occupation and control, for the purposes of their trusts in that

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Act mentioned, of the whole of the building called the Indian Museum, except certain portions thereof set apart for other purposes; and whereas the Trustees are by virtue of that provision in possession of the property described in the schedule to this Act; It is hereby enacted as follows:—

6. The Trustees may, with the previous sanction of the Governor General in Council, and subject to such conditions as he may approve, deliver possession of that property to such person as the Lieutenant-Governor of Bengal may appoint in that behalf.

THE SCHEDULE.

Land bounded on the north by a straight line drawn between the east and the west boundaries parallel to the main south wall of the Museum at a distance of twenty-five feet from the said wall, on the west and south-west by the Chowringhee Road and the walls of the premises known as No. 29 Chowringhee Road, on the south by Kyd Street, and on the east by the walls of the premises known as No. 15 Kyd Street and No. 4 Chowringhee Lane, measuring in all four acres, three roods and sixteen perches, together with all buildings, roads and tanks existing or erected thereon, and all easements appertaining thereto.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to give effect to an arrangement, made with the approval of the Government of India, whereby—

- (a) the Bengal Government is to be represented among the Trustees of the Indian Museum;
- (b) the Bengal Government is to entrust the Trustees with the custody and administration of the economic, ethnological, Indian Art-ware and Fine Art collections belonging to that Government; and
- (c) the Trustees, in consideration of the provision by the Bengal Government of additional accommodation required by them, are to surrender certain land adjacent to the Museum on which that Government may build a School of Art and Art Gallery.

Sections 3 and 4 provide for the representation of the Bengal Government among the Trustees, and sections 5 and 6 empower the Trustees to assume the custody of the collections belonging to the Bengal Government, and to make over to that Government the land on which the School of Art and Art Gallery are to be built.

The 25th May, 1886.

S. C. BAYLEY.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th June, 1886 :—

No. 9 OF 1886.

THE DEBTORS BILL, 1886.

CONTENTS.

SECTIONS.

1. Short title and commencement.
2. Extent.
3. Definition.
4. Enforcement of decree or order for money by imprisonment permissible in excepted cases only.
5. Discretionary powers of Courts in some excepted cases.
6. Power to make rules for guidance of Courts in other excepted cases.
7. Provisions as to imprisonment under Act.
8. Commitment of fraudulent debtors to Magistrate.
9. Special provisions with respect to arrest before judgment.
10. Saving of proceedings antecedent to commencement of Act.
11. Act to bind the Crown.
12. Powers exercisable from time to time.

A Bill to amend the law relating to Imprisonment for Debt.

WHEREAS it is expedient to amend the law relating to imprisonment for debt; It is hereby enacted as follows :—

1. This Act may be called the Debtors Act, 1886; and it shall come into force on the first day of January, 1888.

2. (1) This Act shall extend, in the first instance, only to the territories administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh.

(2) But any other Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, extend this Act, with effect on and from a day not less remote than one year from the date of the notification, to the whole or any specified part of the territories under its administration or to any class of debtors within the whole or any specified part of those territories.

3. In this Act the expression "Revenue Court" means a Court having jurisdiction in suits for the rent, revenue or profits of land.

4. Notwithstanding anything in the Code of Civil Procedure or any other enactment, a person shall not be liable to arrest or imprisonment for default in compliance with a decree or order of a Civil or Revenue Court for payment of money except in the following cases :—

(a) where the order is for payment of a fine;

(b) where the defaulter is a trustee or person acting in a fiduciary capacity, and the decree or order requires him, as such, to pay any money which is in his possession or under his control, or any money for which he is accountable and of which he has not discharged himself;

(c) where the Court is satisfied that, since incurring the liability in respect of which the decree or order was made, the defaulter has fraudulently transferred, concealed or removed any part of his property, or committed any other act of bad faith in relation thereto, with the object or effect of impeding the enforcement of the decree or order by the attachment and sale of his property;

(d) where the Court is satisfied that the defaulter either has, or has had since the date of the decree or order, the means to pay the money, and has refused or without reasonable cause neglected, or refuses or neglects, to pay the same.

5. In any case coming within the exception specified in clause (d) of section 4 the Court may, after inquiry into the case, exercise the discretionary powers of Courts in some excepted cases.

grant or refuse, either absolutely or on terms, any application for the arrest or imprisonment of the defaulter, or for his release from arrest or discharge from imprisonment.

Act XIV, 1882, s. 287; & 33 Vic., c. 62, s. 5.] **6. (1)** The High Court, with respect to Courts subordinate to it, and the Chief Controlling Revenue authority, with respect to Courts subordinate to it, may, with the approval of the Local Government and the sanction of the Governor General in Council, make rules for regulating the procedure to be observed in inquiries for determining whether the case of a defaulter for whose arrest or imprisonment application has been made is a case coming within the exceptions specified in clauses (c) and (d) of section 4, or within either of those exceptions.

(2) Rules may be made under this section—

- (a) for the territories administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh, at any time after the passing of this Act, and
- (b) for territories under the administration of any other Local Government, at any time after the publication of the notification extending this Act to those territories or to any class of debtors therein;

but rules so made shall not take effect until the Act comes into force in the territories for which they have been made.

(3) An authority making rules under this section shall, before making the rules, publish a draft of the proposed rules in such manner as the Governor General in Council, by notification in the Gazette of India, prescribes.

(4) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(5) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(6) A rule made under this section shall not take effect until it has been published in the local official Gazette.

(7) The publication in that Gazette of a rule purporting to be made under this section shall be conclusive proof that it has been duly made.

7. The operation of the enactment under which the defaulter is liable to

Provisions as to imprisonment under Act. arrest or imprisonment in any case coming within the exceptions specified in clauses

(b), (c) and (d) of section 4, or within any of those exceptions, or is entitled to release from the arrest or discharge from the imprisonment, shall be subject to the following provisions, namely:—

- (a) the defaulter may be imprisoned for such term, not exceeding six months, as the Court directs;
- (b) no allowance for the subsistence of the defaulter, or for supplying him with clothing or bedding, shall be payable by the person on whose application the order for the imprisonment of the defaulter is made;
- (c) during the term of his imprisonment the defaulter shall be maintained at the

expense of the Government, and be subject, as nearly as circumstances admit, to the discipline prescribed in the case of a criminal prisoner undergoing simple imprisonment; [L. R. Ch. D.]

(d) notwithstanding the payment of the money in respect of which the decree or order was made, or any arrangement for the payment thereof or proof of present inability to pay it, or any expression of intention to apply for a declaration of insolvency, or any declaration of insolvency, or any request by the person on whose application the order for the arrest or imprisonment was made, the defaulter shall not be released from arrest, or, if he is in prison and the term of his imprisonment is not fulfilled, be discharged from prison, without the order of the Court;

(e) an appeal from the order for the imprisonment of the defaulter, and from an order refusing his release or discharge under clause (d) of this section, shall lie— [Act X 1882, s. (29).]

(i) if the Court making the order is a Civil Court subordinate for the purposes of the Code of Civil Procedure to the District Court, then to the District Court, XIV of 1

(ii) if the Court making the order is any other Civil Court, then to the High Court, and

(iii) if the Court making the order is a Revenue Court, then to the authority to which appeals lie from orders of the Court relating to the execution of decrees, or, where those orders of the Court are final, to such authority as the Local Government may, by notification in the official Gazette, appoint in this behalf; [Act XII, 1881, s. 1]

and the order passed on the appeal shall be final. [Act XIV 1882, s. 6 Act XII, 1881, s. 149.]

8. Where the Court is of opinion that the defaulter has been guilty of any offence under the Indian Penal Code or under any enactment for the time being in force for the punishment of fraudulent debtors, it may, if it thinks fit, instead of ordering his imprisonment under this Act, send him to a Magistrate to be dealt with according to law. [Act 1882, s. 3 Indian B. 1886, s. 10]

9. Notwithstanding anything in Chapter XXXIV of the Code of Civil Procedure, or any other enactment, a defendant in a suit for money only who has been arrested before judgment shall not, as such, either be required to give security for his appearance at any time after the day on which judgment is given, or, if he has been committed to prison, be detained in prison after that day: [32 & 33 Vic. c. 62, s. 6. XIV of 18]

Provided that, if judgment is given against the defendant, and the decree-holder applies, on the day on which judgment is given, for the enforcement of the decree by the imprisonment of the judgment-debtor, the Court may require the judgment-debtor to give such security as it thinks

Act XIV, 1882, s. 342. t. XII, s. 169.]

Act XIV, 1882, s. 339: t. XII, 1881, s. 165 and Act VI, 1870, s. 36.]

sufficient for his appearance at any time when called upon while the application is pending, and, if he fails to give the security, may commit him to prison, or place him in the custody of an officer of the Court, until the disposal of the application.

10. Nothing in this Act shall affect the liability to arrest and imprisonment of any person for whose arrest in execution of a decree or order a warrant has been issued by a Civil or

Revenue Court before this Act comes into force in the territory in which the Court is established.

11. The provisions of this Act shall bind the [L. R. D. 47.]
Act to bind the Crown.

12. All powers conferred by this Act may be exercised from time to time as occasion requires.

STATEMENT OF OBJECTS AND REASONS.

Imprisonment for Debt in India.

A decree or order for the payment of money may be enforced in India by the imprisonment of the judgment-debtor (Act XIV of 1882, s. 251). The Court has a discretionary power to refuse execution at the same time against the person and property of the judgment-debtor (s. 230), but has no discretionary power to refuse execution either against person or against property at the option of the creditor. When an application for execution of a decree is presented, it must, if it is not barred by efflux of time and is otherwise in order, be admitted, and then the Court must order execution of the decree *according to the nature of the application* (s. 245). The Court cannot refuse to issue its warrant for the execution of the decree unless it sees cause to the contrary (s. 250), and "cause to the contrary," as interpreted by the Courts, means some cause which deprives the decree-holder of the right to execute, or to execute against the party against whom execution is sought, or to execute in the mode prayed for.*

2. A judgment-debtor may, when arrested, obtain immediate release by payment of the debt; but if he does not, he must be brought at once before the Court (ss. 336-337).

3. The Local Government may by notification* direct that whenever a judgment-debtor is arrested in execution of a decree for money, and brought before the Court, the Court shall inform him that he may apply, under Chapter XX of the Code, to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of his application, and if he places all his property in possession of a receiver appointed by the Court (s. 336).

4. If the judgment-debtor expresses his intention so to apply, and furnishes sufficient security that he will appear when called on, and that he will, within one month, apply to be declared an insolvent, the Court is to release him from arrest. But if he fails so to apply, the Court may either direct the security to be realised, or commit him to prison in execution of the decree (s. 336).

5. A person is not to be imprisoned in execution of a decree for more than six months, or, if the debt does not exceed fifty rupees, for more than six weeks (s. 342).

6. Whilst he is in prison, a monthly allowance must be paid for his subsistence according to scales fixed by the Local Government. The allowance is to be supplied by the decree-holder, and is to be deemed costs in the suit (ss. 338 to 340).

7. He is to be discharged from prison—

- (a) on the amount mentioned in the warrant of committal being paid to the officer in charge of the prison, or
- (b) on the decree being otherwise fully satisfied, or
- (c) at the request of the person on whose application he has been imprisoned, or
- (d) on default in the payment of the allowance for his subsistence, or
- (e) on his being declared an insolvent, or
- (f) on the expiration of the term of his imprisonment (s. 341).

His discharge from prison does not discharge him from his debt, but he cannot be re-arrested under the same decree (s. 341).

8. By the Presidency Small Cause Courts Act, XV of 1882, the provisions of the Code of Civil Procedure are applied, with modifications and exceptions, to the procedure in the Small Cause Courts at Calcutta, Madras and Bombay. Among the provisions not so applied are those which relate to the release of an arrested judgment-debtor on his expressing an intention to apply for a declaration of insolvency. Chapter XX of the Code, relating to insolvent judgment-debtors, is also not applied to these Courts. (See s. 23 and sched. II.)

9. The Act, however, contains certain special provisions with respect to an arrested judgment-debtor. Under section 29 the Court may release him from arrest on his giving security for payment. And under section 30, if it appears to the Court that a judgment-debtor under its decree is unable, from sickness, poverty or other sufficient cause, to pay the amount of the decree, or of any instalment under the decree, the Court may, from time to time, for such time and on such terms as it thinks fit, suspend the execution of the decree, and release the debtor, or make such order as it thinks fit.

10. In the four districts of the Dekkhan to which the Dekkhan Agriculturists' Relief Acts apply arrest and imprisonment for debt have been abolished in the case of agriculturists.* And certain special Acts for the relief of embarrassed landholders contain provisions protecting the debtor from arrest or imprisonment in respect of the debts to which the Acts apply.

* "No agriculturist shall be arrested or imprisoned in execution of a decree for money passed whether before or after this Act comes into force."—(Act XVII of 1879, s. 21, as amended by Act XXII of 1882, s. 3.)

Acts apply arrest and imprisonment for debt have been abolished in the case of agriculturists.* And certain special Acts for the relief of embarrassed landholders contain provisions protecting the debtor from arrest or imprisonment in respect of the debts

Imprisonment for Debt in England.

11. Imprisonment for debt was abolished in England by the Debtors Act of 1869 (32 & 33 Vic., c. 62), except in the following cases:—

- (1) default in payment of a penalty, or sum in the nature of a penalty, other than a penalty in respect of a contract;
- (2) default in payment of a sum recoverable summarily before a Justice or Justices of the Peace;
- (3) default by a trustee or person acting in a fiduciary capacity and ordered to pay by a Court of Equity any sum in his possession or under his control;
- (4) default by a solicitor in payment of costs, when ordered to pay costs for misconduct as such, or in payment of a sum of money, when ordered to pay the same in his character of an officer of the Court;
- (5) default in payment for the benefit of creditors of any portion of a salary or other income, in respect of the payment of which any Court having jurisdiction in bankruptcy is authorized to make an order;
- (6) default in payment of sums in respect of the payment of which orders may be made under the Act (that is, cases of contumacious refusal under section 5 of the Act, see para. 14).

12. The term of imprisonment in these excepted cases must not exceed one year (s. 4).

13. In cases (3) and (4) the Court has power to enquire into the case, and at discretion to grant or refuse an order for arrest or imprisonment (41 & 42 Vic., c. 51, s. 1).

14. Under section 5 of the Act of 1869, a Court may commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt, or instalment of any debt, due from him in pursuance of any order or judgment of that or any other competent Court. But the power is not to be exercised unless it is proved to the satisfaction of the Court that the person making default has, or has had, since the date of the order or judgment, the means to pay the sum in respect of which he has made default, and has refused or neglected to pay it. "Proof of the means of the person making default may be given in such manner as the Court thinks just, and for the purposes of such proof the debtor and witnesses may be summoned and examined on oath, according to the prescribed rules." A summons under this section is usually called a judgment summons.

15. It will be observed that all the cases in which a debtor is liable to imprisonment under the Act of 1869 involve some degree of delinquency.† And it has been held by high authority‡ that the Act was distinctly intended for the purpose of punishing fraudulent or dishonest debtors.

16. Sums recoverable summarily before Justices, or, as they are called in modern statutory language, Courts of summary jurisdiction, are usually fines. But as ordinary civil debts are in some cases so recoverable, it has been provided by the Summary Jurisdiction Act, 1879 (42 & 43 Vic., c. 49, section 35) that an order of a Court of summary jurisdiction for the payment of a civil debt is not to be enforced by imprisonment, unless the case is such as would make the debtor liable to imprisonment under section 5 of the Debtors Act, 1869.

Imprisonment for Debt in Scotland.

17. In Scotland imprisonment for debt for sums under £3-6-8 was abolished in 1835 by 5 & 6 Wm. IV, c. 70, but alimentary debts (that is, debts for the support of the debtor's wife or children) were excepted from the operation of that Statute. In 1880 was passed the Debtors (Scotland) Act, 1880 (43 & 44 Vic., c. 34), which enacts, by section 4, that,

"with the exceptions hereinafter mentioned, no person shall, after the commencement of this Act, be apprehended or imprisoned on account of any civil debt.

"There shall be excepted from the operation of the above enactment—

- (1) taxes, fines or penalties due to Her Majesty, and rates and assessments lawfully imposed or to be imposed;
- (2) sums decreed for alimient:

"Provided that no person shall be imprisoned in any case excepted from the operation of this section for a longer period than twelve months."

The same Act contains provisions for the relief of insolvent debtors and for the punishment of fraudulent debtors.

18. By the Civil Imprisonment (Scotland) Act, 1852 (15 & 16 Vic., c. 42), imprisonment for alimentary debts was abolished, except in cases where there is a wilful failure to obey the decree for the debt (ss. 3 and 4), and the maximum term of imprisonment for failure to pay rates or assessments was reduced to six weeks (s. 5).

Imprisonment for Debt in Ireland.

19. In Ireland the law as to imprisonment for debt is regulated by the Debtors Act (Ireland), 1872 (35 & 36 Vic., c. 57), as amended by 41 & 42 Vic., c. 54, and is practically identical with the English law.

Proposals for amendment of Indian Law.

20. On the 17th November, 1881, a circular was addressed by the Government of India to all Local Governments and Administrations, stating that the Government of India had under consideration the question of amending the provisions of the Code of Civil Procedure bearing upon the question of the arrest of *pardanashin* women in execution of the decrees of Civil Courts, but that before coming to any final conclusion on the subject the Governor General in Council thought it desirable to deal with the larger question of abolishing imprisonment for debt, and for this purpose to enquire whether sufficient reasons exist for the continued maintenance in India of the present system. Local Governments and Administrations were accordingly requested to favour the Government of India with a full expression of their opinion on the matter.

21. The replies to the circular disclosed much difference of opinion as regards the advisability of maintaining in India the present system of imprisonment for debt.

22. In favour of the maintenance under existing circumstances of the present system of imprisonment for debt were the Madras Government, the Madras High Court, the Bombay Government, the Bombay High Court, the Calcutta High Court, the Calcutta Chamber of Commerce and the Trades Association, Calcutta (unless a change were accompanied by the enactment of a stringent bankruptcy law), the British Indian Association, Calcutta, the Board of Revenue, North-Western Provinces, the Punjab Chief Court, the Chief Commissioner of the Central Provinces, the Chief Commissioner of Assam (provided the law were so altered as to permit the issue of process against the person only after all means of realising the decree by process against property have been exhausted), and the Chief Commissioner and the Judicial Commissioner of Coorg. The arguments which they advanced appear to be in the main the following:—

- (a) that the total abolition of imprisonment for debt in India would be premature, and would remove from the Statute Book the only check upon the fraudulent alienation of property by solvent but dishonest debtors;

- (b) that legislation has proceeded quite far enough in relief of the judgment-debtor,

* Sir C. Spence, of the Bombay High Court, writes:—

"The total abolition of the medieval Hindu family, the unequal distribution of property caused by the Mohammedan law of divorce, and, therefore, the lack of the practice of creating bequests, are all circumstances in this country, which afford the debtor endless opportunities of baffling the efforts of the judgment-creditor to attach his property."

while there are in India special difficulties in executing a decree by attachment of property when the judgment-creditor is a member of an undivided family. Creditors are not, it is said, in the habit of proceeding to extremities unless the debtor has the means of liquidating a portion at least of the debt. The men who go to prison are

for the most part those who obstinately refuse to pay their debts, and cases of imprisonment for debt are not numerous;

- (c) that the abolition of imprisonment for debt would deprive lenders of personal security, would thereby depreciate credit, and would involve an increase in the rate of interest, already very high. In the case of agriculturists this might seriously impair their ability to pay the land-revenue;

- (d) that abolition of imprisonment for debt should only be attempted when the habits of secrecy, engendered by centuries of oppression, have partly worn away, and when transactions are open and the registration of deeds and bonds has become habitual. When the debtor's property can be easily traced and seized in execution of a decree, then it will be reasonable and right to withhold execution on the body of a pauper debtor except as a distinctly exceptional and penal measure in the case of fraud.

23. In support of the abolition of imprisonment for debt were the following authorities:—

- (a) the Advocate General of Bengal, who advocated the introduction of the English system, because there is no reason why the matter should not be regulated in India as in England, if proper exceptions and limitations, as contained in the English Debtors Act of 1869, are prescribed, and because the abolition of imprisonment for debt would not cause any public injury, while, on the other hand, the present system in most instances operates only as a means of oppression, to the total ruin of the party imprisoned and of his family;
- (b) the Bengal Government, which, while not prepared to resist the opinions of the local officers that abolition would at present be premature, thought that, if an alteration of the bankruptcy law were at any time undertaken, measures might then be adopted for the abolition of imprisonment for debt in cases where fraud is not established against the judgment-debtor;
- (c) the North-Western Provinces and Oudh Government, which regarded the existing practice of placing in the creditor's hands the power of selecting his own method of coercion as a relic of the old semi-barbarous debt laws which has now been eliminated from almost every civilized code of judicial procedure. The present system operates with severity against all debtors, honest and dishonest, indiscriminately. The power of subjecting a debtor to arrest and imprisonment should be entrusted *not* to the decree-holder, but to the Courts, and its exercise should be limited to cases where clear proof exists of fraudulent and contumacious attempts on the part of the judgment-debtor to defeat the operation of a decree. Imprisonment is especially hard on the cultivator and working-man, whom it deprives of their means of subsistence and of providing for their families;
- (d) the North-Western Provinces High Court, which advocated the abolition of imprisonment for debt, as it is doubtful whether "any useful purpose is served by the perpetuation in this country of that remnant of barbarism";
- (e) the Punjab Government, which believed that there is some reason to fear that, under the present system, creditors occasionally make use of the law to gratify vindictive feelings or personal spite, and to coerce debtors to sell their land and property at a price below its proper value or to relinquish their just rights. Discretionary power ought to be expressly allowed to the Civil Courts, imprisonment not being resorted to as an ordinary process of execution of a decree, unless the Court is satisfied that there has been fraud or wilful concealment of property;
- (f) the Chief Commissioner of British Burma, who pointed out that the imprisonment of debtors who are paupers, but who are not fraudulent, does no real good to any class, works directly and indirectly great harm to the poorer classes, and causes a distinct loss to the community at large. The practice of permitting such imprisonment has been gradually circumscribed among other civilized nations; among some nations it has absolutely ceased; and there is no reason why the way should not be paved for the disappearance of the system in India. Civil Courts should be allowed to grant execution against the body of judgment-debtors against whom there might be *prima facie* ground for presuming fraud or bad conduct, unless the presumption were rebutted by the judgment-debtor;
- (g) the Judicial Commissioner of British Burma and the Recorder of Rangoon, who were of opinion that imprisonment for debt should be abolished, except in case of fraud, which should be punished criminally. The Recorder recommended that the law as it now obtains in England should be applied to India;
- (h) the Resident at Hyderabad, who considered that the present system of imprisonment for debt is not wanted to compel payment, while it may be used to bring undue pressure to bear upon a debtor, especially in an agricultural country where interest in land is generally given as security for debts. He recommended that imprisonment for debt should be retained only to meet cases in which debtors abscond or endeavour to fraudulently evade meeting their obligations.

24. Thus, the preponderance of opinion was on the whole in favour of the maintenance of imprisonment for debt under the present condition of India, but a considerable and influential minority were in favour of its abolition.

25. The arguments on which the upholders of the present system rely fall into two classes: first, arguments which, if valid at all, are valid for England as well as for India; and, secondly, arguments based on the special circumstances and conditions of India.

26. To arguments of the first class belongs the assertion that "to remove from the Statute Book the penalty of arrest and imprisonment in execution of a decree for money would be to paralyze the commerce and trade of the country." The same objection was made in

* See Lord Cottenham's speech in 1814 on the Creditors and Debtors Bill; Hansard, 74, page 153.

England, first to the abolition of arrest on mesne process,* and afterwards to the abolition of arrest on final process. The power of arrest was removed, and neither commerce nor trade shewed any symptoms of paralysis.

27. Those who uphold imprisonment for debt, not as being generally expedient, but as being specially required for India, do so mainly on two grounds: first, the complexity and obscurity of Indian titles to property; and, secondly, the exceptional prevalence of fraud in India, and the exceptional difficulties of detecting it.

As to the first ground, it has been remarked that if it is wrong to allow a debtor to pledge his person as security for his debts, it is not the less wrong because, owing to the defect of Indian property law, he finds difficulty in giving a satisfactory security over his property.

In the argument based on the prevalence of, and difficulty of detecting fraud, there is undoubtedly much force, though it may be doubted whether the obstacles which can be placed in the way of a creditor realizing his debts are not as great in England as in India. But, however this may be, to make an honest, though needy, debtor liable to imprisonment, simply because fraudulent debtors are numerous and difficult to detect, appears to be as unjust as it would be to make homicide by misadventure punishable by death, simply because the crime of murder was rife and hard to prove.

28. There are in the opinion of the Government of India two principles which ought to be observed in every law of debtor and creditor. The Courts ought not to give effect to any pledge by a debtor either of his person or of the bare necessities of life. The debtor ought not to be allowed, by his own action, supplemented by the action of the Courts, either to deprive himself of his personal liberty, or to reduce himself to starvation. If he cannot obtain credit except on one or other of these securities, it is better that he should not obtain credit at all. Experience acquired in the Dekkhan goes to show that these principles are as applicable to India as to England. The Code of Civil Procedure recognises one of these principles by exempting from seizure for debt the debtor's bare means of subsistence. But this recognition is nullified by the refusal to adopt the principle of exempting the debtor's person from seizure. Of what use is it to reserve by law to the debtor the bare necessities of life, when he can be compelled to give them up by the threat of imprisonment? By those who advocate the retention of the present system, much reliance is placed on the very small proportion of actual imprisonments to warrants of arrest; and the inference drawn from this proportion is that the law, though harsh in theory, produces no hardships in practice. But there is reason to believe that, in the great majority of cases, exemption from arrest is purchased either by renewal of bonds on extortionate terms, or by surrender of property which the law has exempted from seizure, or by surrender of property which does not belong to the debtor at all, but to his relations or friends. In other words, the law enables a creditor to do indirectly what it forbids him to do directly.

29. It is said that the honest debtor has an easy way out of prison through the door of insolvency. But in the first place, the honest debtor ought not to be sent to prison at all; and in the next place, the door which is provided for his release is, for some reason or other, very rarely used. There is, or was until recently, a strong concurrence of opinion to the effect that the Insolvency Chapter of the Code of Civil Procedure is practically a dead letter. As to the causes of its failure,—whether it is to be accounted for by the preliminary proceedings being unnecessarily cumbrous or expensive, or by the difficulty of satisfying the Court under section 351 that the debtor has not been guilty of any kind of misconduct, or by ignorance of the law and of the modes of relief available to debtors,—opinions differ; but about the fact of failure there appears to be no difference.

30. Since 1883 the Government of India has received and published reports obtained from Her Majesty's representatives abroad on the system of imprisonment for debt in force in the various countries to which they are accredited. Those reports showed that imprisonment for debt has been abolished in nearly all civilized countries.

31. Having regard to the state of the law in the United Kingdom, to those reports, to the success which has attended the abolition of imprisonment for debt in the case of agriculturists to whom the Dekkhan Agriculturists' Relief Acts apply, to some expressions to be found in the opinions of the authorities who considered the draft Bankruptcy Bill of 1885, and to the advocacy by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh, and by the Chief Justice and Judges of the High Court of Judicature for the North-Western Provinces, of the entire abolition of the process of arrest for debt, so far as it is a process that can be set in motion at the discretion of the creditor, and of the enforcement of the process being restricted to cases in which the Courts are satisfied that there have been fraudulent and contumacious attempts to defeat the operation of decrees, the Government of India has decided to introduce a Bill giving effect tentatively and, in the first instance, within a limited area to the policy which dictated the English Act of 1869, and is believed by several authorities of weight to be applicable to India.

Provisions of Bill.

32. *Sections 1 and 2.*—It is proposed that the measure shall apply in the first instance to the North-Western Provinces and Oudh, and be extendible to other Provinces, or to particular classes of debtors in other Provinces, by Local Governments with the previous sanction of the Governor General in Council.

From the opinions recorded by the Chief Commissioner and by Mr. MacEwen, the Officiating Recorder of Rangoon, on the draft Bankruptcy Bill of 1885, and by the Recorder, Judicial Commissioner and other authorities, European and Native, on the circular of 1881, there appears to be a strong feeling in Burma in favour of abolishing imprisonment for debt where the debtor has not been guilty of fraud. But it is considered desirable that the proposed Act should apply in the first instance to the territories under one Local Government, and that its effect there should be ascertained before the Act is extended to other parts of the country.

The date on which the Act is to come into force in the North-Western Provinces and Oudh is the 1st of January, 1888. If therefore the Bill is passed during the present year, decree-holders will have more than twelve months within which they may proceed against their judgment-debtors under the provisions of the Code of Civil Procedure. In England the period which elapsed between the passing and the coming into force of the Debtors Act 1869, was less than five months.

33. *Section 4.*—This section is based on section 4 of the Debtors Act, 1869, but applies only to arrest and imprisonment for default in compliance with decrees and orders of Civil and Revenue Courts. Clause (c) is specially designed to check those fraudulent alienations of property by solvent but dishonest debtors which are relied on by the opponents of any mitigation of the existing law as the main justification of imprisonment for debt.

34. *Section 5.*—This section, following the 11 & 12 Vic., c. 54, permits the Court to refuse, either absolutely or on terms, an application for the arrest or imprisonment, or for the release or discharge from arrest or imprisonment, of a defaulter who is a trustee or person acting in a fiduciary capacity and is required, as such, to pay any money which is in his possession or under his control, or any money for which he is accountable and of which he has not discharged himself.

The origin and object of this clause are stated as follows by Jessel, M. R., in *Morris v. Ingram* (L. R. 13 Ch. D. 313):—

"Then we come to the Amendment Act of 1878, which was passed to meet a special class of cases, and the history of that Act was this. An application was made before me for the imprisonment of a trustee who had been ordered to pay a sum of money. It was a very hard case, one of an unintentional breach of trust; and though the law was strictly doing, I had no alternative but to make an order. Then I had various other cases before me which led me to give that the Court had no discretion, for it not infrequently happened

* That is to say, the defaults referred to in § 4 of the existing Act, and in § 5 of the proposed Bill, are those of a person who came in strictly under the first class of circumstances mentioned. If it would be wise and prudent that a discretion should be given to the Court to deal with exceptional cases, but not with the intention of repealing the existing Act, Mr. Norton, being a member of the Legislature, then adopted my suggestion, and procured this Amendment Act to be passed."

35. *Section 6.*—This section empowers the High Court and the Chief Controlling Revenue-authority to make rules for regulating the procedure to be followed in the Courts subordinate to them respectively in inquiries as to the liability of persons to arrest and imprisonment on the ground of fraud or contumacy.

36. *Section 7.*—This section modifies the operation of enactments authorising arrest and imprisonment for default in compliance with decrees and orders of Civil and Revenue Courts for payment of money.

Clause (a), following the Code of Civil Procedure, limits the term of imprisonment to six months, notwithstanding that section 143 of the North-Western Provinces Rent Act, 1881, authorises imprisonment in certain cases for so long a period as two years.

Clause (b) relieves the decree-holder of the liability to maintain his judgment-debtor while in prison. If imprisonment is retained, not as a mode of enforcing payment but simply as a punishment, it will hardly be possible to continue the liability. This liability existed under the old Insolvency law in England, and the Act which imposed it was once described as giving the creditor "the power of imprisoning and tormenting his debtor at the

expense of 3s. 6d. per week."

If it is abolished, great care should be taken that imprisonment is not inflicted except in cases of misconduct which deserve punishment.

Clause (c) requires that the defaulter, though in the civil jail, shall nevertheless be subject, as nearly as circumstances admit, to the discipline prescribed in the case of a criminal prisoner undergoing simple imprisonment. Where a person is ordered to pay a fine, the nature and term of his imprisonment will be regulated by the general law. This clause relates to the other cases in which a debtor is liable to imprisonment. Those cases, as before observed, all involve some degree of delinquency (L. R. 6 Ch. 157), and the imprisonment contemplated by the Bill, as by the English Act (L. R. 13 Ch. D. 343), is simple, that is, without hard labour. The effect of this clause will be to deprive the defaulter, as a civil prisoner, of the privilege of maintaining himself, and purchasing or receiving from private sources food, clothing, bedding, and other necessities (Act XXVI of 1870, s. 31).

Clause (d) provides that, except where the arrest or imprisonment is for default in payment of a fine, the defaulter, when once arrested or imprisoned, shall not be released from

arrest, or discharged from prison, without the order of the Court. The Court may grant the order or refuse it. If it refuses the order, the defaulter may appeal.

Clause (e) so far modifies clause (29) of section 588 of the Code of Civil Procedure as to admit of an appeal being preferred from an order for imprisonment in execution of a decree.

37. *Section 8.*—This section follows section 359 of the Code of Civil Procedure in providing that where the Court is of opinion that the defaulter has been guilty of an offence against the Indian Penal Code or any special enactment for the punishment of fraudulent debtors, it may, instead of ordering his imprisonment in the civil jail, send him to a Magistrate to be dealt with according to law.

38. *Sections 9 and 10.*—These sections contain special provisions with respect to arrest before judgment, and save proceedings taken before the Act comes into force.

39. *Section 11.*—It has been decided *In re Heavens Smith* (L. R. 2 Ex. D. 47) that the English Debtors Act of 1869 does not apply to a case in which the defaulter is a debtor to the Crown. It is proposed that the Indian Act shall have the like effect as against the Crown where a decree or order for payment of money is made in its favour by a Civil or Revenue Court, as it will have against a subject.

40. The question of giving the Courts a discretionary power to refuse an order for the arrest and imprisonment of a judgment-debtor, or at least of a female judgment-debtor, will be considered when next the Code of Civil Procedure comes under revision.

C. P. ILBERT.

The 9th June, 1886.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th June, 1886:—

NO. 10 OF 1886.

A Bill to declare certain allowances collectively known as Oudh Wasikas to be pensions within the meaning of the Pensions Act, 1871.

WHEREAS, on the death of Her Highness the Bahu Begam, His Highness the Nawab Vazir of Oudh delivered to the British Government a sum of money with intent that the interest accruing thereon should, in compliance with the wishes of Her Highness the Bahu Begam as expressed in a Deed of Deposit executed by her in the year 1813, be applied by the British Government to the payment of certain pensions, which pensions are known as the Amanat Wasikas;

And whereas in the year 1813 the said Government guaranteed the payment of certain pensions to persons connected with the Khas Mahal of Her Highness the Bahu Begam, which pensions are known as the Zamanat Wasikas;

And whereas in the years 1814, 1825, 1829 and 1838 loans, known respectively as the 1st, 3rd, 5th and 6th Oudh loans, were made by the Rulers of Oudh to the Hon'ble the East India Company with intent that the interest accruing thereon should be applied by the said Government to the payment of certain pensions, which pensions are known as the Loan Wasikas;

And whereas the said Government reserved to itself the right of commuting the pensions to the

payment of which the interest accruing on the 5th Oudh loan was to be applied;

And whereas the Amanat, Zamanat and Loan Wasikas have been regarded as pensions to which the Pensions Act, 1871, applies, and rules respecting them have been made and published under section 14 of that Act;

And whereas, since the making and publication of the rules, doubt has been expressed whether the said Wasikas are pensions within the meaning of the Pensions Act, 1871;

And whereas it is expedient to declare them to be pensions within the meaning of that Act;

It is hereby enacted as follows:—

1. This Act may be called the Oudh Wasikas Act, 1886.
2. The allowances respectively known as the Amanat Wasikas, the Zamanat Wasikas and the Loan Wasikas are, within the meaning of the Pensions Act, 1871, pensions conferred by a former Government and continued by the British Government on political considerations.
3. Notwithstanding anything in section 10 of the said Act, the Local Government may, without the consent of the holder of a pension payable out of the interest accruing on the 5th Oudh loan, order the whole or any part of the pension to be commuted on the terms referred to in the fourth article of the treaty executed with respect to that loan on the first day of March, 1829, and ratified by the Governor General in Council on the eighth day of May in the same year.

STATEMENT OF OBJECTS AND REASONS.

CERTAIN allowances, locally known as Amanat Wasikas, Zamanat Wasikas and Loan Wasikas, are paid by the British Government to the descendants of certain relatives and dependants of the Bahu Begam and the Vazirs and Kings of Oudh. Till the year 1880 no doubt was entertained that these allowances were pensions within the meaning of the Pensions Act, 1871. In that year it became desirable on financial grounds to commute one of the largest of them, and, a dispute having arisen as to the person entitled to receive the capitalized amount of the allowance, the Government had to consider whether it could safely pay the amount under cover of the Pensions Act to the person who appeared to be best entitled. The Hon'ble the Advocate General inclined to the opinion that a Wasika was a pension within the meaning of the Act, but thought there was a good deal to be said in favour of the opposite view. As the sum involved was so very large that the Government would not have been justified in incurring any risk in disposing of it, a special Bill was introduced into the Legislative Council and passed as the Tuj Mahal's Pension Act, 1881.

This step, which the Government was compelled to take for its own protection, necessarily suggested a doubt as to the applicability of the Pensions Act to Wasikas.

As it is expedient on political considerations that there should be no room for question as to the applicability of the Act to Wasikas, the Government has decided to introduce this Bill to remove the doubts created by the legislation of 1881.

The 9th June, 1886.

J. W. QUINTON.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 23rd June, 1886:—

NO. 11 OF 1886.

THE PUNJAB TENANCY BILL.

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A Bill to amend the Law relating to the Tenancy of Land in the Punjab.

WHEREAS it is expedient to amend the law relating to the tenancy of land in the Punjab; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, local extent and commencement. 1. (1) This Act may be called the Punjab Tenancy Act, 1886.

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the Punjab and its Dependencies; and

(3) It shall come into force on such date (hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, appoint in this behalf.

Repeal. 2. (1) The Punjab Tenancy Act, 1868, is hereby repealed; and XXV 1868.

(2) All suits, appeals and applications instituted, preferred and made under that Act, and pending at the commencement of this Act, shall, so far as may be, be deemed to have been respectively instituted, preferred and made under this Act.

3. In this Act, unless there is something repugnant in the subject or context,—

Definitions. (a) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land: [New. C IX, 1883 3 (1).]

(b) "tenant" means a person who holds land of another person, and is, or, but for a special contract, would be, liable to pay rent for that land to that other person. But it does not include an inferior landowner, or a farmer or mortgagee of the rights of a landowner, or a person who takes lease of unoccupied land for the purpose of subletting it: [New. C IX, 1883 3 (2).]

(c) "landlord" means the person of whom a tenant holds land, and to whom the tenant is, or, but for a special contract, would be, liable to pay rent for that land: [New. C IX, 1883 3 (3).]

(d) "tenant" and "landlord" include the predecessors and representatives in interest of a tenant and landlord respectively: [New.]

(e) "rent" means whatever is payable, deliverable or renderable in money, kind or service by a tenant on account of the use or occupation of land held by him: [New. C XI, 1883 3 (4).]

(f) "pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery," and "render," "renderable" and "rendering": [New. C IX, 1883 3 (5).]

(g) "arrear of rent" means rent which remains unpaid after the date on which it becomes payable: [Act XX 1868, s. 2.]

(h) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions: [New. C IX, 1883 3 (7).]

(i) "land-revenue" means—

(1) the land-revenue for the time being assessed on land, whether the assessment is leviable or not; or

The Punjab Tenancy Bill.
(Chapter II.—Right of Occupancy.—Sections 4-5.)

(2) where the land-revenue has been permanently assessed, or has been wholly or in part compounded for or redeemed, the amount which, but for the permanent assessment, composition or redemption, would have been leviable; or

(3) where no land-revenue has been assessed on land, the amount which would have been assessed thereon if the rate sanctioned for like land in the same village or in adjacent villages had been applied;

and includes any rate imposed in respect of the increased value of land due to canal-irrigation, unless, where the land is assessed, that increased value has been taken into account in the assessment:

[New.]
XX of 1883.

(j) "rates and cesses" mean the local rate payable under the Punjab District Boards Act, 1883, the *zaildāri*, *lambardāri* and *patwāri* cesses, and any other rates and cesses of which the levy has been generally or specially authorised by the Local Government:

[New.]

(k) "Revenue-officer" and "Revenue Court" have the meanings respectively assigned to those expressions in the Punjab Land-revenue Act, 1886:

[Act IX,
1883, s. 3 (9).]

(l) "prescribed Revenue-officer," in any provision of this Act, means such Revenue-officer as the Local Government may, by notification in the official Gazette, direct by name or by virtue of his office to discharge the functions of a Revenue-officer under that provision:

Now. Cf. Act
X, 1883, s. 3
(9).]

(m) "improvement" means, with reference to a tenancy, any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the letting value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution, made directly beneficial to it;

Explanation I.—It includes—

Act XXVIII,
368, s. 38.]

(1) the construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage, and for protection against floods;

(2) the construction of wells, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes, and other works of a like nature;

(3) the erection of buildings in connection with the land for the more convenient or profitable cultivation thereof; and

(4) the renewal or re-construction of any of the foregoing works, or such alterations therein or additions thereto as are not required for maintaining the same and as durably increase their value;

Cf. Bom. Act
1879, s. 70.] But it does not include any benefit accruing to land from the ordinary operations of husbandry;

Explanation II.—A work which benefits several tenancies may be deemed to be, with respect to each of them, an improvement;

Explanation III.—A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his landlord's property:

Act XXVIII,
368, s. 3,
amended.]

(n) "grandfather" includes the father of an adoptive father, the adoptive father of a father and the adoptive father of an adoptive father; "uncle" includes the brother of an adoptive father; and "grand-uncle" includes the adoptive father of an uncle: and

Now.]

(o) *jāgirdār* includes the holder of any revenue-free land.

CHAPTER II.

RIGHT OF OCCUPANCY.

Tenants having right of occupancy. 4. (1) A tenant—

(a) who has before or after the commencement of this Act paid no rent in respect of land occupied by him beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, and whose father and grand-father, uncle and grand-uncle, occupying the same land, paid no rent beyond the amount aforesaid, or

(b) who has before or after the commencement of this Act continuously occupied land of which he was landowner and of which he ceased to be landowner otherwise than by forfeiture to Government or by any voluntary act, or

(c) who, before the twenty-first day of October, 1868, settled in a village along with the founders thereof as a cultivator of the land occupied by him, and who, since so settling there, has before or after the commencement of this Act continuously occupied that land, or

(d) who is, or has before or after the commencement of this Act been, *jāgirdār* of the village or any part of the village in which the land occupied by him is situate, and who—

(i) being such *jāgirdār*, has before or after the commencement of this Act continuously occupied the land for not less than twenty years, or

(ii) having been such *jāgirdār*, occupied the land while he was *jāgirdār* and has before or after the commencement of this Act continuously occupied it for not less than twenty years,

shall be deemed to have a right of occupancy in the land so occupied.

(2) If a tenant proves that he has before or after the commencement of this Act continuously occupied land for thirty years and paid no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, he shall be presumed to have fulfilled the conditions of clause (a) of sub-section (1).

(3) If a tenant occupied land in a village in 1838, he shall, for the purposes of clause (c) of sub-section (1), be presumed to have settled there along with the founders of the village.

5. A tenant whose name is entered in a record-of-rights sanctioned by the Local Government before the

Right of occupancy of other tenants recorded as having the right before passing of Punjab Tenancy Act, 1868. of-rights sanctioned by the Local Government before the twenty-first day of October, 1868, as of a tenant having a right of occupancy in land which he has continuously occupied from the time of the preparation of that record, shall be deemed to have and to have had a right of occupancy in that land unless the landlord proves in a suit—

(a) that within the thirty years immediately preceding the institution of the suit other tenants of the same class in the same village, or in adjacent villages, have ordinarily been ejected at the will of the landlord; or

(b) that before the twenty-first day of October, 1868, the tenant, in the presence of an officer authorized to attest entries in the record-of-rights,

The Punjab Tenancy Bill.
(Chapter III.—Rent.—Sections 6-15.)

voluntarily admitted himself to be a tenant not having a right of occupancy, and that the admission was recorded at the time by that officer.

[Act XXVIII, 1868, s. 7.] **6.** If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him, for other land belonging to the same landlord, the land taken in exchange shall, for the purposes of this Act, be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

[Act XXVIII, 1868, s. 8.] **7.** Nothing in the foregoing sections of this Chapter shall preclude any person claiming a right of occupancy on any ground other than the grounds specified in those sections from suing to establish the right.

[Act XXVIII, 1868, s. 9.] **8.** No tenant shall acquire a right of occupancy by mere lapse of time.

[Act XXVIII, 1868, s. 9, amended.] **9.** In the absence of a custom to the contrary, no one of several joint owners of land shall acquire a right of occupancy in the land jointly owned by them.

CHAPTER III.

RENT.

Revision of Rents.

[New.] **10. (1)** At any time while a local area is being assessed, and before the assessment has been confirmed, the prescribed Revenue-officer, of his own motion or on the application of either landlord or tenant, may, subject to the other provisions of this Chapter, revise the rent of any tenant having a right of occupancy in land situate in that local area.

(2) At any other time the prescribed Revenue-officer, on the application of either landlord or tenant, may, subject to those provisions, revise the rent of any tenant having a right of occupancy.

Conversion of Rents.

[Act XXVIII, 1868, s. 16.] **11. (1)** In the case of a tenant having a right of occupancy or holding under an unexpired lease, rent in kind shall not be commuted into rent in money, or rent in money into rent in kind, without the consent of both the landlord and the tenant.

(2) With their consent the commutation may be made by the prescribed Revenue-officer on application made to him for that purpose by either of them.

[New.] **12.** When the rent payable by a tenant having a right of occupancy is fixed at a lump sum without relation to the land-revenue of his tenancy and the rates and cesses chargeable thereon, the prescribed Revenue-officer shall, on the application of either the landlord or the tenant, determine what portion of the rent is represented by the land-revenue and rates and cesses.

Enhancement.

13. (1) An enhancement of rent shall not take effect before the commencement of the agricultural year next following the date of the agreement or order under which it is payable.

(2) The agricultural year shall for the purposes of this section commence on the sixteenth day of June.

14. Where the rent of a tenant having a right of occupancy in any land is a share of the produce, or of the appraised value thereof, with or without an addition in cash, or is paid according to cash-rates fixed with reference to the nature of the crops grown, the tenant shall be entitled to occupy the land at the share or rates hitherto paid by him :

Provided that—

(a) when the land or any part thereof previously not irrigated or flooded becomes irrigated or flooded, the share or rates payable in respect of the land or part may, subject to the provisions of this Act, be enhanced to the share or rates paid by tenants having a right of occupancy for irrigated or flooded land of a similar description and with similar advantages in the same neighbourhood ; and

(b) where, in the case of rent consisting of a share of the produce, or of the appraised value thereof, with an addition in cash, that addition is the amount of the land-revenue and rates and cesses, or a proportion thereof, it may, on an enhancement of that amount, be enhanced—

(i) if the addition was the full amount, then to the enhanced amount of the land-revenue and rates and cesses, and

(ii) if the addition was a proportion of the amount, then to the same proportion of the enhanced amount.

15. (1) The rent payable by a tenant having a right of occupancy, to whom the last foregoing section does not apply, may be enhanced on the ground that the rent paid by him in respect of his tenancy, after deducting the amount of the land-revenue thereof and the rates and cesses chargeable thereon, is—

(a) if he belongs to the class specified in clause (a) of sub-section (1) of section 4, less than two annas per rupee of the amount of the land-revenue ;

(b) if he belongs to any of the classes specified in clauses (a), (b) and (c) of that sub-section, less than four annas per rupee of the amount of the land-revenue ;

(c) if he does not belong to any of the classes specified in that sub-section, less than eight annas per rupee of the amount of the land-revenue.

(2) In a case to which sub-section (1) of this section applies, the rent may be enhanced to an amount not exceeding two, four or eight annas per rupee of the amount of the land-revenue, as the case may be, in addition to the amount of the land-revenue and rates and cesses.

The Punjab Tenancy Bill.
(Chapter III.—Rent.—Sections 16-21)

Reduction.

16. (1) When the land, or any part of the land, held by a tenant having a right of occupancy to whom section 14 applies ceases to be irrigated or flooded, the share or rates payable in respect of the land or part may be reduced to the share or rates paid by tenants having a right of occupancy for unirrigated or unflooded land of a similar description and with similar advantages in the same neighbourhood.

(2) Where the rent of a tenant having a right of occupancy is a share of the produce, or of the appraised value thereof, with an addition in cash, and that addition is the amount of the land-revenue and rates and cesses, or a proportion thereof, the addition may, on a reduction of that amount, be reduced—

- (i) if it was the full amount, then to the reduced amount of the land-revenue and rates and cesses; and
- (ii) if it was a proportion of the amount, then to the same proportion of the reduced amount.

17. (1) The rent payable by a tenant having a right of occupancy, to whom section 14 does not apply, may be reduced on any of the following grounds, and on no others, namely:—

- first*—that the area of the land held by him has been diminished or has been proved to be less than the area for which rent has been previously paid by him;
- second*—that the productive powers of that land have been decreased by any cause beyond his control;
- third*—that the rent of the land is regulated by the amount of the land-revenue thereof and that the land-revenue has been reduced;
- fourth*—that within the six years immediately preceding the passing of this Act the rent has been raised above the maximum allowed by section 15.

(2) In a case to which sub-section (1) of this section applies, the rent shall be reduced to the amount which the Revenue-officer considers fair and equitable:

Provided that—

- (a) where the reduction is made on the third ground, it shall be in proportion to the reduction in the land-revenue of the land;
- (b) where the reduction is made on the fourth ground, the rent shall not be reduced below the maximum allowed by section 15, and
- (c) a reduction shall not be made in any case if its effect would be to make the rent of the land less than the amount of the land-revenue thereof and the rates and cesses chargeable thereon.

Remission.

18. Notwithstanding anything contained in the foregoing sections of this Chapter, if it appears to a Court making a decree for an arrear of rent that the area of a tenancy has been so diminished by diluvion or otherwise, or that the produce thereof has been so diminished by drought, hail, deposit of sand, or

other like calamity, that the full amount of rent payable by him cannot be equitably decreed, the Court may allow such remission from the rent payable by him as may appear to it to be just.

19. (1) Whenever for any cause the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or for any period suspended, the prescribed Revenue-officer may by order remit or for that period suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land-revenue of which the payment has been remitted or suspended bears to the whole of the land-revenue payable in respect of the land.

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or during the period of suspension for any rent of which the payment has been suspended.

(4) Where the payment of rent has been suspended for any period, that period shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

(5) If the landlord collects any rent of which the payment has been remitted, or before the expiration of the period of suspension collects any rent of which the payment has been suspended, the whole of the land-revenue remitted or suspended in his favour shall become immediately payable by him.

(6) The provisions of this section relating to the remission or suspension of the payment of rent may be applied, so far as they can be made applicable, to land held free of revenue, in any case in which, if the land had been revenue-paying, the payment of the whole or any part of the land-revenue thereof might, in the opinion of the prescribed Revenue-officer, have been remitted or suspended under the rules for the time being in force for regulating the remission and suspension of land-revenue.

Division of Produce and Appraisement of Crops.

20. When rent is taken by division of the produce, or by estimate or appraisement of the crop, if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division, estimate or appraisement, or if there is a dispute about the division of the produce or the quantity or value of the crop, the prescribed Revenue-officer may, on the application of either party, appoint such person as he thinks fit to be a referee to divide the produce or estimate or appraise the crop.

21. (1) When the Revenue-officer appoints a referee under the last foregoing section, he may in his discretion authorise the referee to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting those assessors (if any) and the procedure

The Punjab Tenancy Bill.
(Chapter IV.—Relinquishment and Ejectment.—Sections 22-29.)

to be followed in making the division, estimate or appraisement.

(2) The referee so appointed shall make the division, estimate or appraisement in accordance with these instructions.

(3) For the purpose of exercising the powers conferred upon him, the referee, with his assessors (if any), may enter upon or into any land or building on or in which the crop is standing or the produce is lying.

22. (1) The result of the division, estimate or appraisement shall be recorded and signed by the referee, and the record shall be submitted to the Revenue-officer.

(2) The Revenue-officer shall consider the record, and after such further inquiry (if any) as he may think necessary shall make an order either confirming or varying the division, estimate or appraisement.

(3) The rent shall be payable in accordance with that order.

(4) The Revenue-officer shall also make such order as to the costs of the reference as he thinks fit.

(5) The costs may include the remuneration of the referee and of the assessors (if any), and may be levied from the applicant before the appointment of the referee subject to adjustment at the close of the proceedings.

CHAPTER IV.

RELINQUISHMENT AND EJECTMENT.

Relinquishment.

23. (1) A tenant may relinquish his tenancy by giving verbally or in writing to his landlord or to his landlord's agent, on or before the fifteenth day of January in any year, notice of his intention to relinquish the tenancy.

(2) If the landlord or his agent refuses to receive the notice, or if he receives it but refuses to sign and deliver a receipt for it, the tenant may apply to the prescribed Revenue-officer on or before the date aforesaid to cause the notice to be served on the landlord; and the Revenue-officer, on receiving the cost of service from the tenant, shall cause the notice to be served as soon as may be.

(3) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person or is not cultivated by the landlord himself.

Ejectment.

24. (1) A tenant shall not be ejected otherwise than in execution of an order of the prescribed Revenue-officer.

(2) Save as otherwise expressly provided by this Act, an order of the Revenue-officer for the ejectment of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June.

25. (1) Where at the time of the order for the ejectment of a tenant from any land his present crops are standing thereon, he shall not be ejected

from the land until the crops have ripened and he has been allowed a reasonable time to harvest them.

(2) For the use of the land occupied by the crops he shall pay such rent as may be agreed on between him and the landlord, or as, in default of such agreement, may, on the application of either landlord or tenant, be determined by the prescribed Revenue-officer.

(3) Where the rent is determined by an order of the prescribed Revenue-officer, the order may be executed by him in the same manner as a decree for money may be executed by a Revenue Court.

26. A Revenue-officer may make an order for the ejectment of a tenant from land in which he has a right of occupancy if—

(a) a decree has been made for the ejectment of the tenant from the land either on the ground that he has used the land in a manner inconsistent with the conditions on which he holds it or on the ground that he has omitted to use the land in the manner required by those conditions; or

(b) a decree has been made against the tenant for an arrear of rent due in respect of the land, and the decree remains unsatisfied at the time when an application for his ejectment is made in manner hereinafter provided.

27. (1) When a decree has been made for the ejectment of a tenant having a right of occupancy on either of the grounds mentioned in clause (a) of the last foregoing section, the decree-holder may apply to the prescribed Revenue-officer for an order for the ejectment of the tenant in execution of the decree.

(2) If it appears to the Revenue-officer that the injury caused by the commission in consequence of which the decree was made is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landlord therefor, he may, instead of making an order for the ejectment of the tenant, order him to remedy the injury within one month from the date of the order, or order him to pay to the Revenue-officer, within a time to be specified in the order, such compensation as the Revenue-officer thinks fit.

(3) If the injury is so remedied or the compensation so paid, an order for the ejectment of the tenant in execution of the decree shall not be made.

28. (1) If a landlord desires to eject a tenant having a right of occupancy in land against whom a decree for an arrear of rent due in respect of the land has been made and remains unsatisfied, he may apply to the prescribed Revenue-officer for an order for the ejectment of the tenant.

(2) The Revenue-officer shall, on receiving the application, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount to the Revenue-officer within fifteen days from receipt of the notice he will be ejected from the land.

The Punjab Tenancy Bill.
(Chapter IV.—Relinquishment and Ejectment.—Sections 22-29.)

to be followed in making the division, estimate or appraisement.

(2) The referee so appointed shall make the division, estimate or appraisement in accordance with these instructions.

(3) For the purpose of exercising the powers conferred upon him, the referee, with his assessors (if any), may enter upon or into any land or building on or in which the crop is standing or the produce is lying.

[New. Cf. Act IX, 1883, s. 28.]

22. (1) The result of the division, estimate or appraisement shall be recorded and signed by the referee, and the record shall be submitted to the Revenue-officer.

(2) The Revenue-officer shall consider the record, and after such further inquiry (if any) as he may think necessary shall make an order either confirming or varying the division, estimate or appraisement.

(3) The rent shall be payable in accordance with that order.

(4) The Revenue-officer shall also make such order as to the costs of the reference as he thinks fit.

(5) The costs may include the remuneration of the referee and of the assessors (if any), and may be levied from the applicant before the appointment of the referee subject to adjustment at the close of the proceedings.

CHAPTER IV.

RELINQUISHMENT AND EJECTMENT.

Relinquishment.

[Act XXVIII, 1868, ss. 28, 30 & 31.]

23. (1) A tenant may relinquish his tenancy by giving verbally or in writing to his landlord or to his landlord's agent, on or before the fifteenth day of January in any year, notice of his intention to relinquish the tenancy.

(2) If the landlord or his agent refuses to receive the notice, or if he receives it but refuses to sign and deliver a receipt for it, the tenant may apply to the prescribed Revenue-officer on or before the date aforesaid to cause the notice to be served on the landlord; and the Revenue-officer, on receiving the cost of service from the tenant, shall cause the notice to be served as soon as may be.

(3) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person or is not cultivated by the landlord himself.

Ejectment.

[New.]

24. (1) A tenant shall not be ejected otherwise than in execution of an order of the prescribed Revenue-officer.

[Cf. Act XXVIII, 1868, s. 21.]

(2) Save as otherwise expressly provided by this Act, an order of the Revenue-officer for the ejectment of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June.

[Act XXVIII, 1868, s. 27.]

25. (1) Where at the time of the order for the ejectment of a tenant from any land his present crops are standing thereon, he shall not be ejected

from the land until the crops have ripened and he has been allowed a reasonable time to harvest them.

(2) For the use of the land occupied by the crops he shall pay such rent as may be agreed on between him and the landlord, or as, in default of such agreement, may, on the application of either landlord or tenant, be determined by the prescribed Revenue-officer.

(3) Where the rent is determined by an order of the prescribed Revenue-officer, the order may be executed by him in the same manner as a decree for money may be executed by a Revenue Court.

26. A Revenue-officer may make an order for the ejectment of a tenant from land in which he has a right of occupancy if—

(a) a decree has been made for the ejectment of the tenant from the land either on the ground that he has used the land in a manner inconsistent with the conditions on which he holds it or on the ground that he has omitted to use the land in the manner required by those conditions; or

(b) a decree has been made against the tenant for an arrear of rent due in respect of the land, and the decree remains unsatisfied at the time when an application for his ejectment is made in manner hereinafter provided.

27. (1) When a decree has been made for the ejectment of a tenant having a right of occupancy on either of the grounds mentioned in clause (a) of the last foregoing section, the decree-holder may apply to the prescribed Revenue-officer for an order for the ejectment of the tenant in execution of the decree.

(2) If it appears to the Revenue-officer that the injury caused by the commission in consequence of which the decree was made is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landlord therefor, he may, instead of making an order for the ejectment of the tenant, order him to remedy the injury within one month from the date of the order, or order him to pay to the Revenue-officer, within a time to be specified in the order, such compensation as the Revenue-officer thinks fit.

(3) If the injury is so remedied or the compensation so paid, an order for the ejectment of the tenant in execution of the decree shall not be made.

28. (1) If a landlord desires to eject a tenant having a right of occupancy in land against whom a decree for an arrear of rent due in respect of the land has been made and remains unsatisfied, he may apply to the prescribed Revenue-officer for an order for the ejectment of the tenant.

(2) The Revenue-officer shall, on receiving the application, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount to the Revenue-officer within fifteen days from receipt of the notice he will be ejected from the land.



SUPPLEMENT TO
The Gazette of India.

No. 23. }

CALCUTTA, SATURDAY, JUNE 5, 1886

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE OF INDIA will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

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No Official Order or Notifications, the Publication of which in the GAZETTE OF INDIA is required by Law, or which it has been customary to publish in the CALCUTTA GAZETTE will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to.

GOVERNMENT OF INDIA.
DEPARTMENT OF FINANCE AND COMMERCE.

SUPPLEMENT TO THE STATEMENTS OF PRICES CURRENT (RETAIL) OF FOOD-GRAINS FOR THE 1st AND 2nd HALVES OF FEBRUARY, MARCH, AND APRIL 1886, PUBLISHED IN PAGES 406, 720, 744, 772, 795, 820, 825 AND 766 OF THE SUPPLEMENT TO THE "GAZETTE OF INDIA" DATED 13th AND 27th MARCH, 10th AND 24th APRIL AND 8th AND 22nd MAY 1886.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	REMARKS
CENTRAL INDIA.																
QUANTITIES PER RUPEE IN SEERS OR SO FOLLOWS.																
DISTRICTS.																
1st half of February 1886.																
(Revised.)																
Indore.																
Gwalior.																
Goona.																
Baghelkhand (Sutna).																
2nd half of February 1886.																
(Revised.)																
Indore.																
Gwalior.																
Goona.																
Baghelkhand (Sutna).																
1st half of March 1886.																
Indore.																
Gwalior.																
Goona.																
Baghelkhand (Sutna).																
2nd half of March 1886.																
Indore.																
Gwalior.																
Goona.																
Baghelkhand (Sutna).																
1st half of April 1886.																
Bangalore.																
Kolar.																
Mysore.																
Hassan.																
Shimoga.																
Kadur.																
Chitaldroog.																

CENTRAL INDIA.	Indore	15 8	23 0	9 3	10 0	33 4	19 3	*	23 8	30 1	10 11	100 0	12 0
	Gwalior	16 11	21 15	7 13	10 1	20 1	18 8	14 10	25 13	21 15	31 8	136 14	11 3
	Goona	18 0	20 0	10 0	10 8	23 8	*	*	25 12	24 0	16 0	200 0	12 0
	Baghelkhand (Sutna)	18 8	35 0	8 0	17 0	22 8	20 8	*	29 0	*	31 0	200 0	10 8
2nd half of April 1886.													
MADRAS.	Nellore	10 13		12 14	14 0	21 2	23 14	25 8				93 5	14 13
	Bangalore	11 5	11 13	9 0	9 8	24 0		30 5	11 13	...	13 0	96 0	12 0
	Kolar		12 0	10 0	11 8	...		33 0	12 0	...	14 0	102 0	11 0
	Tumkur	13 0	12 0	10 0	11 8	...		36 0	13 0	...	14 0	340 0	11 8
MYSORE.	Mysore	12 0		9 8	11 0	...		25 0	12 8	...	10 8	90 0	11 0
	Hassan		13 0	12 0	13 0	...		32 0	14 0	...	12 0	96 0	12 0
	Shimoga	13 10	14 11	11 9	13 10	...		39 14	14 11	...	14 11	480 0	11 9
	Kadur	10 0	12 0	12 0	14 0	...		32 0	13 7	...	10 0	64 0	12 0
CENTRAL INDIA.	Chitaldroog	15 0	17 2	12 5	13 7	33 3	21 0	32 6	14 14	...	13 0		11 0
	Indore	16 8	23 0	9 3	10 0	30 0	19 3	*	23 0	22 8	10 7	100 0	12 0
	Gwalior	16 11	22 0	7 13	10 1	20 1	21 0	14 10	23 7	21 15	31 15	136 14	10 15
	Goona	20 7	20 0	10 4	10 12	32 0	*	*	37 8	30 0	16 0	200 0	11 12
CENTRAL INDIA.	Baghelkhand (Sutna)	20 8	35 0	8 0	17 0	21 0	20 0	*	31 0	*	33 12	200 0	10 4

* Not sold. † In Chitaldroog firewood is stated to be sold in bundles and cart-loads, but not in weight.

DEPARTMENT OF FINANCE AND COMMERCE,
(Statistical Branch)

D. BARBOUR,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
PUBLIC WORKS DEPARTMENT.

IRRIGATION OPERATIONS OF THE KHARIF CROP IN THE PUNJAB, 1885-86.

STATEMENT No. I.

Comparative Abstract of Irrigation and Rainfall in Canal Districts of the Punjab.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
DISTRICTS.	Area of acres.	Cultivated area in acres.	AREA IRRIGATED		COMPARISON WITH LAST CROP.		RAINFALL IN KHARIF MONTHS													
			1885-86	1884-85	Increase.	Decrease	April.		May.		June.		July.		August.		September.		TOTAL	
			1885-86	1884-85	1885-86	1884-85	1885	1884	1885	1884	1885	1884	1885	1884	1885	1884	1885	1884	1885	1884
Lahore	2,114,552	1,101,021	14,779	11,429	3,297		0.0		1.37	0.05	0.11	1.05	1.05	0.72	1.11	1.14	0.61	1.16	5.12	10.71
Montgomery	1,567,750	357,622	41,141*	31,662†	8,750		1.10		0.70			3.60	0.20	4.80	1.00	1.00	0.10	2.70	1.10	11
Multan	1,701,200	700,310	180,914	195,138		15,104	0.20		1.50		0.00	1.10		2.00	1.00	1.20		1.70	6.50	6.1
Muzaffargarh	2,007,810	307,520	128,777	136,845		8,068	1.70		1.00	0.70	2.00	1.00	0.20	1.90	2.40	1.10		1.20	8.70	6.40
Dera Ghazi Khan	2,801,180	1,308,070	127,111	135,630		8,518	0	0.10	3.00	0.08		0.11	0.90	2.81	0.70	2.57		1.16	5.05	8
Shahpur	3,002,132	514,946	8,916	9,411		505	2.10	1.40	2.00			1.10	2.10	2.00	1.50	0.70	1.81	3.81	10.43	8.8
TOTAL IRRIGATION CANALS	17,477,031	4,254,421	501,035	522,474	11,506	32,095														

* Includes 7,551 acres irrigation from the Lower Sohai and Para Canal.
† This is the correct average and differs from that shown in the return for Kharif, 1884-85.
‡ This is the correct rainfall and differs from that shown in the return for Kharif, 1884-85.

Area irrigated in 1884-85 522,474
Do " " 1885-86 501,035
Net decrease 21,439

STATEMENT No. II.

Statement in Acres of Crops irrigated in Canal Districts.

DESCRIPTION OF CROPS	Lahore.	Montgomery.	Multan.	Dera Ghazi Khan.	Muzaffargarh.	Shahpur.	TOTAL
Wheat	11	74	1,050	20	5,855	110	6,110
"	3,448	4,451	12,891	16,905	9,391	56	37,142
"	1,705	9,251	42,214	8,253	20,133	5,951	78,407
"			52,951	17,276	34,720		104,947
"	9,061	5,553	1,453	54,797	28,772	3,099	102,635
TOTAL KHARIF, 1885-86	14,725	15,319	57,518	12,311	128,777	8,916	502,006
TOTAL KHARIF, 1884-85	11,470	12,081	106,118	12,679	136,845	9,441	322,474

* Includes 7,551 acres irrigation from the Lower Sohai and Para Canal.
† This is the correct average and differs from that shown in the return for Kharif, 1884-85.

STATEMENT No. III.

Statement in Acres of Crops irrigated in Canal Divisions.

DESCRIPTION OF CROPS	Upper Sutlej Division, Irrigation Canals.	Lower Sutlej and Chenab Division, Irrigation Canals.	Dera Ghazi Khan Division, Indus Canals.	Shahpur Canals.	Muzaffargarh Canals.	TOTAL
Wheat	85	1,050	20	110	5,855	6,110
"	3,470	12,892	16,905	56	32,301	55,624
"	10,956	42,214	8,253	5,951	20,133	87,507
"		52,951	17,276		34,626	104,853
"	36,796	60,810	54,797	3,099	28,772	194,274
TOTAL KHARIF, 1885-86	50,067*	180,914	127,111	8,916	128,777	502,006
TOTAL KHARIF, 1884-85	44,111	106,118	12,679	9,441	136,845	322,474

* Includes 7,551 acres irrigation from the Lower Sohai and Para Canal.
† This is the correct average and differs from that shown in the return for Kharif, 1884-85.

R. HOME, Colonel, R.E.,
Joint Secretary to Government, Punjab, P. W. D., I. B.



SUPPLEMENT TO
The Gazette of India.

o. 24. }

CALCUTTA, SATURDAY, JUNE 12, 1886.

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Karwar	12 5/4	7 0	14 0	16 8	13 0	22 0	13 0	23 8	13 0	213 5 1/2	12 0
Pinch Mahals (Godhra)	12 1	9 8	10 10	10 3	16 0	20 0	11 6	6 3	11 6	160 0	15 4
Aden	8 0	6 3	7 0	10 3	11 3	19 0	11 3	6 3	6 3	65 5	32 0
Asirgarh Cantonment	15 0	10 0	12 0	28 0	27 13	17 12	21 0	9 14	160 0	12 0	13 12
Baroda Camp (Sadar Bazar)	12 13	17 2	8 0	17 2	16 0	17 12	21 0	9 2	50 0	13 12	13 0
Dasa Cantonment	17 8	22 0	7 0	10 8	23 0	20 0	23 0	11 0	135 0	13 0	13 0
Nimach Cantonment	18 4	22 0	8 0	25 0	20 0	20 0	25 0	24 0	190 0	13 0	13 0
Nasirabad Cantonment	20 9	32 0	8 0	35 0	23 0	20 0	30 5 1/2	31 0	50 0	14 0	14 0
Rajkot Station	17 8	17 8	9 0	23 8	16 8	17 8	18 8	11 3	160 0	35 10	35 10
Upper Sind Frontier	13 11	20 13	11 3	21 8	16 8	17 8	19 13	14 0	85 0	16 0	16 0
Karachi	12 0	20 0	14 0	18 0	16 0	17 8	17 8	14 0	160 0	14 0	14 0
Hydrabad (Gidu Bunder)	12 8	17 8	8 0	18 8	13 0	17 8	17 8	14 0	160 0	14 0	14 0
Shikarpur	12 4	22 8	10 4	18 0	13 0	17 8	17 8	14 0	160 0	14 0	14 0
Sukkur	15 8	26 8	10 8	21 0	20 8	17 8	22 0	15 0	160 0	14 0	14 0
Thar & Parkar (Umarkot)	17 8	17 8	16 0	21 0	17 0	17 8	22 0	15 0	160 0	14 12	14 12
* In common use.											
Western Districts.											
Burdwan	17 8	17 8	21 0	21 0	21 0	21 0	21 0	21 0	21 0	21 0	21 0
Bankura	18 8	18 8	22 8	22 8	22 8	22 8	22 8	22 8	22 8	22 8	22 8
Beerboom	19 8	19 8	23 8	23 8	23 8	23 8	23 8	23 8	23 8	23 8	23 8
Medinapore	16 0	16 0	20 0	20 0	20 0	20 0	20 0	20 0	20 0	20 0	20 0
Hooghly	16 0	16 0	20 0	20 0	20 0	20 0	20 0	20 0	20 0	20 0	20 0
Howrah	16 0	16 0	20 0	20 0	20 0	20 0	20 0	20 0	20 0	20 0	20 0
Central Districts.											
Calcutta	16 0	21 8	15 0	19 0	15 0	15 0	20 4	20 0	18 0	6 4	13 4
24-Pargunnahs	13 4	20 0	13 8	13 8	17 8	17 8	17 8	17 8	17 8	17 8	17 8
Nuddea	17 4	26 0	16 0	16 0	22 14	22 14	22 14	22 14	22 14	22 14	22 14
Khoolna	13 4	13 4	17 4	17 4	21 0	21 0	21 0	21 0	21 0	21 0	21 0
Jessore	20 0	17 0	13 4	17 4	26 0	26 0	26 0	26 0	26 0	26 0	26 0
Moorshedabad	10 0	17 0	13 4	17 4	19 0	19 0	19 0	19 0	19 0	19 0	19 0
Dinapore	17 4	35 10	17 0	17 0	22 8	22 8	22 8	22 8	22 8	22 8	22 8
Rajahmhye	17 4	21 0	17 0	17 0	17 12	17 12	17 12	17 12	17 12	17 12	17 12
Rungpore	17 12	17 12	17 12	17 12	21 0	21 0	21 0	21 0	21 0	21 0	21 0
Bogra	17 4	17 4	17 4	17 4	21 0	21 0	21 0	21 0	21 0	21 0	21 0
Pubna	21 12	21 12	21 12	21 12	21 4	21 4	21 4	21 4	21 4	21 4	21 4
Darjeling	9 0	10 0	13 0	13 0	14 0	14 0	14 0	14 0	14 0	14 0	14 0
Jalpaiguri	13 4	20 0	13 0	13 0	15 5	15 5	15 5	15 5	15 5	15 5	15 5
Eastern Districts.											
Dacca	15 8	26 0	14 0	17 0	21 0	21 0	21 0	21 0	21 0	21 0	21 0
Farrukpore	24 0	25 0	16 0	17 0	16 0	16 0	16 0	16 0	16 0	16 0	16 0
Backergunge	13 0	13 0	13 0	13 0	18 0	18 0	18 0	18 0	18 0	18 0	18 0
Mymensingh	13 4	13 4	13 4	13 4	15 0	15 0	15 0	15 0	15 0	15 0	15 0
Chittagong	16 0	16 0	16 0	16 0	13 0	13 0	13 0	13 0	13 0	13 0	13 0
Noakhally	12 0	12 0	12 0	12 0	13 0	13 0	13 0	13 0	13 0	13 0	13 0
Tripurah	13 5	13 5	13 5	13 5	13 0	13 0	13 0	13 0	13 0	13 0	13 0
Chittagong Hill Tracts	12 0	12 0	12 0	12 0	12 0	12 0	12 0	12 0	12 0	12 0	12 0
Hill Tipperah	12 0	12 0	12 0	12 0	12 0	12 0	12 0	12 0	12 0	12 0	12 0

* Price of rice in Nudda not published, the figures given being apparently incorrect. With the published price in Nudda.

a In sub-divisions retail prices of salt per rupee were:—Culina 14 seers, Cutwa 13-4 seers, and Panagunge 13 seers.

b In Rungpore retail price of salt 12 seers per rupee.

c In Rampur Hat retail price of salt 13-5 seers per rupee.

d In sub-divisions retail prices of salt per rupee were:—Fumlook 11 seers, Chhattal 13-8 seers, and Contai 10-8 seers.

e In sub-divisions retail prices of salt per rupee were:—Serampore 13 seers and Jehanabad 13-8 seers.

f In sub-divisions retail prices of salt per rupee were:—Bairat 12-12 seers, Bussirhat 13 seers, Diamond Harbour (at Kuiphat 12-4 seers), Barrackpore and Dum-Dum 12 seers.

g In sub-divisions retail prices of salt per rupee were:—Koohtea 12-12 seers, Meherpore 12 seers, and Chooa-danga 12 seers.

h In Sathira and Bagihat retail price of salt 11 seers per rupee.

i In sub-divisions retail prices of salt per rupee were:—Jhenida and Narail 12 seers, Magpora 10-12 seers, and Bongong 13 seers.

f In sub-divisions retail prices of salt per rupee were:—Lalbagh and Kandil 12 seers, and Junzipore 11-8 seers.

g In Natore and Nowgong retail price of salt 12 seers per rupee.

h In sub-divisions retail prices of salt per rupee were:—Gubanda 9-12 seers, Nilphamari 13 seers, and Kuri-gram 12 seers.

i In Seragunge retail price of salt 13 seers per rupee.

j In Alipora sub-division retail price of salt 10 seers per rupee.

k In sub-divisions retail prices of salt per rupee were:—Manickgunge 11 seers, Moonshengunge 10-12 seers, and Naraingunge 12-4 seers.

l In sub-divisions retail prices of salt per rupee were:—Gualundi 12 seers and Madaripore 10-8 seers.

m In sub-divisions retail prices of salt per rupee were:—Putuakhal 10-10 seers, Perzepore 11 seers and Bhola 10-8 seers.

n In sub-divisions retail prices of salt per rupee were:—Kishoregunge 10-10 seers, Attra 12 seers, Jamalpore 10-10 seers, Sherpore 10 seers, and Netrokona 12-5 seers.

o In Cox's Bazar retail price of salt 11-8 seers per rupee.

p In sub-divisions retail prices of salt per rupee were:—Brahmunberiah 12-8 seers, and Chandpore 12 seers.

PRICES CURRENT OF FOOD-GRAINS THROUGHOUT INDIA FOR THE 1st HALF OF MAY 1886—continued.

DISTRICTS.		QUANTITIES PER RUPEE IN SEERS OF 80 TOLAS.																REMARKS.
		3	4	5	6	7	8	9	10	11	12	13	14	15	16			
		Wheat.	Barley.	Rice, best sort.	Rice, common.	Jowar or (Sorghum vul- gare).	Bajra or (Cumbu typhonideum).	Marua or Ragi (Eleusine coro- cana).	Kangri or Kakum, Italian millet (Setaria italica).	Giam, Chenna, Chola, Kadalay or Sumaga (Cyper aristatum).	Maize (Zea Mays).	Arhar or Thur (Adian Pa (Ca- janus indicus).	Firewood.	Salt.				
Behar.		S. Ch.	S. Ch.	S. Ch.	S. Ch.	S. Ch.	S. Ch.	S. Ch.	S. Ch.	S. Ch.	S. Ch.	S. Ch.	S. Ch.	S. Ch.	S. Ch.			
Patna		20 0	28 0	11 8	17 0	26 0	26 0	26 0	19 0	27 12	18 0	27 0	120 0	11 8				
Gya		15 8	30 0	8 8	10 0	21 0			16 0	23 8		23 0	200 0	11 04				
Shahabad		19 8	27 0	8 0	16 0					24 0		17 0	100 0	12 80				
Durbhanga		18 8	25 8	10 0	16 0				17 0	19 8	25 0	20 0	100 0	11 82				
Muzafferpore . . .		20 0	30 0	12 0	16 0					22 8	27 8	22 8	140 0	12 02				
Sarun		18 8	27 8	7 4	18 8					25 0	20 0	27 0	100 0	12 09				
Chumpanun* . . .		20 0	23 0	10 0	16 0				16 0	28 0	25 0	21 0	120 0	12 43				
Monghyr		23 2	36 12	13 9	16 4	24 2			21 0	27 0	27 6	21 0	151 8	12 231				
Bhāgaipur		18 15	30 5	13 2	17 10					25 4	25 4	15 15	151 8	12 1022				
Purneah		21 0		19 0	21 0					20 0		15 0	130 0	11 023				
Maldah		22 0		10 0	21 0					20 0		15 0	150 0	11 8				
Sonthal Pergunnahs		17 0		16 0	23 0					20 8	30 0	23 0	200 0	11 484				
Orissa.																		
Cuttack		19 11		10 8	17 1					19 11			80 0	14 0				
Pooree		15 12		15 12	21 0					14 7		17 1	80 0	14 7				
Balasore		18 0	13 0	13 0	24 0					15 0		12 0	160 0	9 855				
CHOTA NAGPORE.																		
South-Western Frontier Agency.																		
Hazaribagh		No return received.																
Lohardugga		20 0	22 0	16 0	21 0			30 0		16 0	20 0	20 0	120 0	10 0				
Singbhoom		24 0	32 0	24 0	28 0					16 0		21 0	300 0	9 0				
Manbhoom		15 0	32 0	12 0	27 0					18 0		18 0	240 0	11 1056				
Sylhet.																		
Cachar		13 0		12 4	15 12					16 8		20 8	118 0	13 0				
Goalpara		12 4		10 103	13 53					14 83		11 131	64 0	12 1				
Garo Hills		22 0		8 0	20 0					10 0		8 0	70 0	12 0				
Kamrup		16 0		8 0	13 0					13 0		12 0	160 0	8 0				
Darrang		7 0		8 0	13 0					10 0		9 0	150 0	10 0				
Nowgong		8 0		7 0	16 0					9 0		10 0	120 0	10 0				
Sibsagar		10 0		10 0	13 0					11 0		11 0	160 0	9 0				
Lakhimpur		10 0		6 8	10 0					9 0		10 0	160 0	10 0				
Khasi and Jaintia Hills										9 0		8 10	100 0	8 0				
Naga Hills					8 0							4 0	120 0	3 3				
Dehra Dun.																		
Dehra Dun		19 0	30 0	6 0	11 8	20 0	20 0	26 0		23 8	22 0	24 0	160 0	11 0				
Saharanpur		20 7	30 3	7 8	10 12	23 11	27 15	37 10	32 4	25 13	29 0	26 14	107 8	12 54				
Muzaffarnagar . . .		20 0	33 0	6 10	13 2	22 0	19 12	19 12	12 2	26 4	26 4	17 10	110 0	13 2				
Meerut		19 0	30 0	6 0	14 0	22 0	20 0		14 0	28 8	27 0	24 0	100 0	12 8				
Belandshahr		22 8	33 0	7 0	11 0	25 0	22 0	16 0	24 0	31 8	25 0	25 0	160 0	12 8				
Aligarh		20 8	31 0	5 4	10 0	25 0	17 8		16 0	31 0	24 0	36 0	130 0	13 0				
Kumana		12 0	14 0	9 0	10 0			13 0	16 0	12 0								

N.W. PROVINCES.									
Bijoor	19 11	34 1	14 10	12 8	30 8	20 4	...	27 0	11 0
Moradabad	19 4	30 12	10 0	14 8	30 8	20 4	...	27 0	11 0
Badaun	22 3	32 6	6 0	13 3	24 0	16 12	...	27 0	11 0
Bareilly	19 6	28 12	6 4	12 8	28 12	20 0	...	27 0	11 0
Shahjahanpur	21 8	32 8	8 4	14 8	...	...	...	27 0	11 0
Tarai Pergunnahs	21 4	31 4	8 2	13 2	25 0	20 0	...	27 0	11 0
Muttra	19 0	29 8	7 8	12 6	24 0	20 0	...	27 0	11 0
Agra	17 8	26 0	6 0	12 0	22 8	18 0	...	27 0	11 0
Farrukhabad	19 0	27 0	6 0	9 0	19 0	...	...	27 0	11 0
Mamur	21 4	27 4	4 8	11 5	19 8	...	...	27 0	11 0
Etawah	19 12	27 12	7 0	14 0	16 0	...	...	27 0	11 0
Etah	21 0	31 0	7 0	14 0	16 0	...	...	27 0	11 0
Jalaun	21 8	29 0	7 8	15 0	35 8	20 0	...	27 0	11 0
Jaunpur	24 0	32 0	10 0	12 0	34 0	...	...	27 0	11 0
Lalitpur	21 4	30 0	9 8	14 8	25 0	...	...	27 0	11 0
Cawnpore	17 12	25 0	12 12	15 0	27 0	...	...	27 0	11 0
Fatehpur	20 8	28 0	8 0	15 0	27 0	...	...	27 0	11 0
Banda	17 0	27 12	7 0	13 8	26 0	25 0	...	27 0	11 0
Allahabad	21 7	25 4	7 12	13 12	21 0	...	...	27 0	11 0
Hamirpur	No return received.								
Jaunpur	19 12	29 12	9 7	16 10	18 0	...	...	27 0	11 0
Corakhpur	22 0	36 0	10 0	15 0	...	...	...	27 0	11 0
Basti	20 0	29 8	10 5	16 4	...	...	...	27 0	11 0
Azamgarh	17 0	27 0	7 0	14 0	23 0	...	...	27 0	11 0
Mirzapur	19 0	25 14	10 5	15 11	21 2	20 14	...	27 0	11 0
Benares	18 10	21 0	6 7	12 4	21 14	19 13	...	27 0	11 0
Ghazipur	19 4	29 12	10 4	14 2	21 2	...	...	27 0	11 0
Balia	21 4	31 4	15 0	12 8	...	...	...	27 0	11 0
Philibhit	No return received.								
Almora									
OUDH.									
Sultanpur	22 0	36 0	11 0	15 0	30 0	24 0	40 0	32 0	11 0
Partabgarh	22 0	32 7	14 7	17 0	...	...	...	32 0	11 0
Fyzabad	19 8	28 12	10 8	16 0	...	...	...	32 0	11 0
Kheri	23 6	34 8	8 8	14 0	26 0	26 8	36 0	27 0	11 0
Lucknow	21 0	30 8	6 0	14 0	19 0	18 8	...	27 0	11 0
Bara Banki	21 0	32 0	7 0	15 0	...	...	...	27 0	11 0
Bahraich	24 0	40 0	14 0	20 11	32 0	22 0	32 0	32 0	11 0
Rai Bareilly	20 8	30 0	7 0	15 8	...	...	...	32 0	11 0
Sitapur	23 0	35 0	8 0	16 1	...	...	...	32 0	11 0
Gonda	23 8	36 8	15 0	18 1	30 8	15 4	27 12	30 0	11 0
Unao	20 0	29 0	9 0	14 3	23 0	15 0	...	30 0	11 0
Hardui	No return received.							30 0	11 0
PUNJAB.									
Hissar	21 0	40 0	10 0	16 0	35 0	27 0	8 0	36 0	12 8
Rohatak	22 0	38 0	13 0	18 0	29 0	25 0	...	36 0	12 0
Gurgaon	22 0	36 0	10 0	16 0	22 0	22 0	...	36 0	12 0
Delhi	20 0	31 0	12 0	18 0	24 0	18 0	...	36 0	12 0
Karnal	23 0	40 0	11 0	17 0	30 0	22 0	25 0	36 0	12 8
Umballa	21 0	36 0	12 0	18 0	24 0	24 0	...	36 0	12 0
Simla	15 0	19 0	9 0	13 0	19 0	15 0	...	36 0	12 0
Kangra	19 0	31 0	13 0	18 0	...	...	...	36 0	12 0
Hoshiarpur	No return received.								
Jullundur	20 0	36 0	7 0	12 0	28 0	20 0	...	36 0	14 8
Ludhiana	24 0	35 0	12 0	18 0	25 0	20 0	...	36 0	14 8

* Figures for wholesale price of salt at Motihari not furnished.
 * In sub-divisions retail prices of salt per rupee were:—Jehanabad 12 seers, and Aurangabad and Nowada 10 seers.
 * In sub-divisions retail prices of salt per rupee were:—Buxar and Sasseram 12 seers, and Bhabuah 11 seers.
 * In sub-divisions retail prices of salt per rupee were:—Talpoore 11-8 seers and Madhubani 11 seers.
 * In sub-divisions retail prices of salt per rupee were:—Sitamarhee 11 seers and Hajepore 12-4 seers.
 * In Sewan retail price of salt 12 seers per rupee.
 * In Bettiah retail price of salt 11-4 seers per rupee.
 * In sub-divisions retail prices of salt per rupee were:—Beguserai 11 seers and Jamui 12 seers.
 * In sub-divisions retail prices of salt per rupee were:—Banka 12 seers, and Mudehpura and Soopole 10 seers.
 * In sub-divisions retail prices of salt per rupee were:—Kishengunge 10 seers and Arrareah (at Ranigunge) 12 seers.
 * In sub-divisions retail prices of salt per rupee were:—Deoghur and Jamtara 13 seers, Godda 11 seers, and Pakour 12 seers.
 * In Bhadruck retail price of salt 8-8 seers per rupee.
 * In Gobindpur retail price of salt 12 seers per rupee.

PRICES CURRENT OF FOOD-GRAINS THROUGHOUT INDIA FOR THE 1st HALF OF MAY 1886 ---continued.

[illegible]

Pegu Division.									
Rangoon Town	21 10	13 10	16 10	...	...	...	19 5	...	320 0
Paga	...	10 2	14 3	...	...	...	11 2	...	137 8
Tharawaddy	...	11 14	12 15	...	...	...	11 1	17 13	535 11
Frome	18 3	13 7	15 4	...	...	...	13 13	53 44	167 9
Irrawaddy Division.									
Bassein	...	14 2	14 1	...	...	...	13 2	...	265 14
Henzada	...	13 0	15 10	...	...	...	...	...	183 8
Thonegwa	...	9 6	17 7	...	...	...	12 14	...	246 0
Thayethiyo	15 1	11 2	13 1	...	...	...	13 14	28 3	490 0
Tenasserim Division.									
Moulmein Town and Amberst	9 0	9 0	12 2	...	...	...	12 2	10 2	220 0
Tavoy	...	13 12	19 6	...	...	...	...	...	329 3
Mergui	...	14 9	16 10	...	...	...	...	...	428 0
Toungoo	...	10 10	13 13	...	...	...	12 9	...	27 0
Shwaygyin	...	9 13	11 15	...	...	...	...	...	200 0
Salween	No return received.	...	...	...	...	...	...	...	...
Hyderabad As-Said Districts.									
Secunderabad	16 5	6 13	10 14	...	...	...	14 7	...	125 0
Bolarum	17 13	8 2	10 1	...	...	...	16 11	...	116 14
Chadarghat	11 8	7 0	9 0	...	...	...	14 12	...	88 0
Amrāoti	...	...	...	...	...	...	16 8	...	...
Nakla	17 0	7 0	11 0	...	...	...	20 0	...	21 0
Ellichpur	19 0	8 0	11 0	...	...	...	15 0	...	...
Buldana	23 0	8 0	11 0	...	...	...	24 0	...	...
Wun	20 0	7 0	11 0	...	...	...	20 0	...	...
Bāsin	28 10	8 0	11 5	...	...	...	23 0	...	...
Mysore.									
Bangalore	10 13	8 11	9 8	...	...	...	11 11	...	96 0
Kolar	...	12 0	11 8	...	...	...	12 0	...	102 0
Tānkār	13 0	12 8	11 8	...	...	...	12 0	...	340 0
Mysore	11 8	11 0	11 12	...	...	...	11 0	...	90 0
Hassan	...	12 0	13 0	...	...	...	13 0	...	96 0
Shimoga	13 10	14 11	13 10	...	...	...	13 10	...	480 0
Kadur	10 0	12 0	14 0	...	...	...	13 0	...	64 0
Chitaldroog	15 0	17 2	13 7	...	...	...	14 6	...	...
Coorg.									
Coorg	9 10	13 3	15 8	...	...	...	17 12	...	110 0
Rajpootana.									
Jaypore	18 8	27 8	8 4	...	...	...	28 12	32 0	35 0
Aishengurh	19 12	32 0	4 0	...	...	...	30 0	35 0	...
Kerrowlee	18 12	26 4	12 8	...	...	...	26 6	...	...
Ulwur	21 15	30 3	6 12	...	...	...	29 8	28 11	40 0
Bhuthpore (City)	20 0	20 12	8 0	...	...	...	30 7	30 8	200 0
Ajmere	16 5	27 0	3 0	...	...	...	25 0	32 0	80 0
Deoli Cantonment	23 7	33 3	5 8	...	...	...	32 0	...	230 0
Erinpura	19 4	33 0	8 0	...	...	...	29 0	...	310 0
Sirohee	17 0	27 0	6 0	...	...	...	21 0	22 0	200 0
Abu	15 0	23 0	6 0	...	...	...	18 12	...	160 0
Anadra	17 0	27 0	6 4	...	...	...	22 0	...	...
Bālmere	18 0	...	8 4	...	...	...	16 0	...	240 0
Jaysalmere	12 5	...	9 0	...	...	...	14 12	...	...
Hilly Tracts of Meywar	21 0	...	10 0	...	...	...	22 0	...	...
Meywar (Oodeypore)	16 12	20 11	15 0	...	...	...	24 0	24 0	...
Bāswāra (Meywar Agency)	27 8	26 8	9 6	...	...	...	17 3	37 8	200 0
Parthagarh (Meywar Agency)	21 4	31 4	12 8	...	...	...	40 0	30 0	...
Marwar (Jodhpore)	16 8	21 4	6 4	...	...	...	33 2	20 0	...

* Firewood is sold by head-load, bullock-load, and cart-load, and not by weight.

† Eight pies per bundle.

PRICES CURRENT OF FOOD-GRAINS THROUGHOUT INDIA FOR THE 1st HALF OF MAY 1886—concluded.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
PROVINCES.		QUANTITIES PER RUPEE IN SEERS OF 80 TOLAS.													
DISTRICTS.		Wheat.	Barley.	Rice, best sort.	Rice, common.	Jowar or Cholum (Sorghum vul. rare).	Bajra or Cumbu (Pennisetum typhoides).	Marua or Ragi (Eleusine corocana).	Kanuni or Kakun, Indian millet (Setaria italica).	Gram, Chenna Chola, Kadalay or Sunaga (Cicer arietinum).	Maize (Zea Mays)	Arhar or Thor (Cajanus indica).	Firewood.	Sale.	REMARKS.
RAJPOOTANA— contd.	Bikaner	11 14	...	3 0	6 0	...	16 2	...	...	20 6	...	8 8	85 0	14 0	
	Boondie	27 0	40 0	9 8	10 0	30 8	...	...	...	40 0	...	...	160 0	12 8	
	Kotah	26 8	30 0	9 0	10 0	32 8	20 0	...	...	38 8	30 0	32 8	240 0	11 12	
	Tonk	24 0	33 10	8 8	9 8	39 0	...	...	12 0	35 8	...	...	100 0	12 12	
	Jhalawar	23 10	26 10	8 14	11 13	28 5	14 0	...	14 2	35 6	...	11 13	175 0	11 1	
	Shahpura	24 0	29 10	10 0	16 4	34 0	28 8	...	...	27 0	33 0	33 0	160 0	12 8	
CENTRAL INDIA.	Dholpur	18 6	24 15	10 2	...	23 3	20 0	...	20 0	25 14	...	35 10	90 0	12 8	
	Indore	16 13	23 0	9 3	10 0	32 0	19 3	...	...	22 5	35 0	10 0	100 0	12 0	* Not sold.
	Gwalior	17 1	22 7	7 5	9 13	19 3	24 0	...	18 4	22 13	...	29 11	136 14	10 15	
	Goona	28 0	20 0	10 4	10 8	32 0	...	...	...	34 0	50 0	16 8	200 0	11 12	
	Baghelkhand (Sutna)	21 0	30 0	8 0	17 0	21 0	20 0	...	...	29 12	...	35 0	200 0	10 4	

DEPARTMENT OF FINANCE AND COMMERCE,
(Statistical Branch.)

D. BARBOUR,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
DEPARTMENT OF FINANCE AND COMMERCE.

SUPPLEMENT TO THE STATEMENTS OF PRICES CURRENT (RETAIL) OF FOOD-GRAINS FOR THE 1st AND 2nd HALVES OF APRIL 1886, PUBLISHED IN PAGES 793 AND 821 OF THE SUPPLEMENT TO THE "GAZETTE OF INDIA" DATED 8th AND 22nd MAY 1886.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
PROVINCES.	DISTRICTS.	QUANTITIES PER RUPEE IN SEERS OF 50 T. AS.														REMARKS.
		Wheat.	Barley.	Rice, best sort.	Rice, common.	Lower or Chelum (Sorghum vul- gare).	Bajra or Cumbu (Pennisetum typhoides).	Maria or Ravi (Eleusine (oro- poda).	Kangra or Kalan, Harian millet (Setaria indica).	Kanun, (Henna, Chola, Kadlay or Samra (a- mericum).	Maize (Zea Mays).	Arhar or Hindi (Cajup Tea (a- jonus indicus).	Firewood.	Salt.		
N.W. PROVINCES.	1st half of April 1886.															
	Fatehpur	17 0	23 5	12 12	17 0					27 0		26 4	110 1	10 5		
BOM- BAY.	2nd half of April 1886.															
	Aden	8 0		6 3	7 0	10 3	11 3			11 1		6 3	65 5	32 0		



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OFFICIAL PAPERS.

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GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

REPORTS ON THE STATE OF THE SEASON AND PROSPECTS OF THE CROPS FOR THE WEEK ENDING 16th JUNE, 1886.

GENERAL REMARKS.—Rain has been general in the Madras Presidency, in the Southern portion of the Bombay Presidency, in Berar and Hyderabad, in Southern and Eastern Bengal, and in Assam. In Coorg the fall has been heavy. Slight rain has fallen in parts of the Central Provinces, the North-Western Provinces, Rajputana, and Central India.

In Madras the standing crops are generally in good condition and prospects are fair. Prospects are good in Mysore and Coorg.

Kharif preparations are in progress in Bombay, the Central Provinces, Berar and Hyderabad, and have commenced in the North-Western Provinces and Oudh and in Rajputana. In the Punjab the *rabi* harvest has been nearly finished.

Cultivation is progressing in Bengal and prospects are favourable, but more rain is wanted in many places for sowings. Prospects are generally good in Assam, but more rain is wanted in Cachar and Dibrugarh.

No report has been received from British Burma for the week under notice.

The public health continues fair.

Prices are steady, except in some districts of the Punjab and the Bangalore district of Mysore.

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
Madras —(June 16th)		
Bellary . . .	Average 1'31	Standing wet crops generally good; harvest second crop paddy, yield about average. Cattle-disease in one taluk.
Kurnool . . .	Average last week since revised, 1'33; this week, '60.	Small-pox and cattle-disease in three taluks.
Ganjam . . .	Average last week since revised, 1'19; this week, '37.	Slight small-pox in six and cattle-disease in three taluks; slight cholera. Average number employed on Chaikra canal last week 87, this week 50.
Kistna . . .	Average 1'71	River 14 feet water over amount. Slight fever and small-pox; cholera in five taluks and cattle-disease in one.
Chingleput (Madras) .	Average 2'04	Standing crops good; harvest wet and dry grains, outturn below average. Fever in one and cattle-disease in two taluks.
Coimbatore . . .	Average '24	Standing crops generally good, but <i>cholera</i> suffering from insects in parts of two taluks; harvest paddy and <i>coolum</i> , outturn paddy average, <i>cholam</i> about average. Small-pox in one village and fever in one taluk.

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
Madras—<i>contd.</i>		
Tanjore	Average last week since revised, 141; this week, 133.	Standing crops generally good.
Madura	Average last week since revised, 195; this week, 225.	Health of people and cattle generally good.
Malabar	Average 4.52	Harvest third crop paddy completed, outturn below average. Fever in one, slight small-pox in eight, and cholera in three taluks.
Travancore	3.79	Small-pox and fever in parts.
Bombay—(June 16th)		<i>General Remarks.</i> General prospects fair.
Kurrachee	<i>Nil</i>	River at Kotri on 14th, 11 feet 9 inches against 12 feet 7 inches on same date last year. <i>Kharif</i> sowing commenced in four talukas, damage to <i>kharif</i> crops by turtles and <i>kooka</i> in Ghoti and Shalbandar talukas. Fever in nine and cattle-disease in two talukas; small-pox in three villages in districts, one fresh case, five recovered, three remaining sick. Prices:—wheat, red rice and <i>barfi</i> in Kurrachee 26, 30, and 44, in Sakro <i>mul</i> , 38 and 47, in Mirpur Boreo 24, 46 and 42, and in Sehwan 32, 40 and 40 pounds per rupee, respectively.
Hyderabad	<i>Nil</i>	Weather close and sultry. <i>Kharif</i> cultivation in progress and rice-plantation general. River at Kotri on 14th, 11 feet 9 inches against 12 feet 7 inches on same date last year. Fever in three, small-pox in two, and cattle-disease in two talukas. Wheat 26, <i>mul</i> , 30, <i>barfi</i> 33, white rice 19, and red rice 28 pounds per rupee.
Ahmedabad	<i>Nil</i>	Agricultural operations in progress. Public health good. Wheat 25 and <i>barfi</i> 32 pounds per rupee.
Baroda	<i>Nil</i>	Small-pox and measles still continue in Naoan. Preparations for <i>monsoon</i> in progress. <i>Barfi</i> 27, wheat 22, and rice 17 pounds per rupee.
Surat	Bardoli, 167; Pardi, 63; Mandvi, 150.	Preparations for agricultural operations going on. Fever and cough in Bardoli taluka. <i>Barfi</i> 38 and <i>mul</i> 40 pounds per rupee.
Nasik	Rain throughout the district, maximum at Sinha 3.07, minimum at Bardoli, 1.40.	Land being prepared for <i>monsoon</i> sowing in some places, and in other <i>monsoon</i> sowing in progress. Public health good throughout the district, cattle-disease in one village in Baglan taluka, 100, cloudy. Wheat 31½, <i>barfi</i> 31, and rice 17½ pounds per rupee.
Colaba (Bombay)	Slight rain on 11th and 14th, .05.	Total rainfall to date 2.03, being 6.05 below average. Average abnormal temperature 2° warm from 9th to 12th and 3° warm from 13th to 17th; vapour in air normal; abnormal wind northerly; distant lightning on 9th and 10th, thunder and lightning on 11th.
Poona	Rain throughout the district, maximum at K'el, 1.92; minimum at Pindarihar, .20.	Sowing commenced in some parts of the district. Public health good; cattle-disease in Junnar and Bhamburda talukas. <i>Barfi</i> 33 and <i>mul</i> 43 pounds in the district, in Poona <i>barfi</i> 30 and <i>mul</i> 35 pounds per rupee.
Ahmednagar	Rahuri, 2.24; Nargur, 2.10; Sangli, 1.05; 2.04; Purna, 1.07; Akola, Shrigonda, Shreegan, Kojalgum, Jamsrud, and Khatu, from .55 to .94; Nargur, .30.	Public health good. <i>Barfi</i> —maximum 60 pounds, and minimum 39; <i>mul</i> —maximum 54 and minimum 48 pounds per rupee.
Sholapur	Sholapur, .97; Barshi, 1.13; Mulga, 1.01; Karmala, .33; Pundharipat, .09; Sangli, .02; Mulga, .08.	More rain required to commence sowing operations. <i>Barfi</i> 53 and <i>mul</i> 42 pounds per rupee.
Dharwar	Rain at all stations, varying from 1.50 in Nagand to 1.50 in Galka.	Rice sowing almost completed, sowing of early crops just begun in Ron taluka, elsewhere land being prepared. Public health good. Rice 23 and <i>mul</i> 50 pounds per rupee.
Kanara	Kanara, 4.40; Kumbha, 2.07; Halyal, 75; Yelkapur, .50.	Total rainfall 21.75. Sowing operations continue on coast and Ghut talukas. Rice plant healthy. Anthrax continues in Supapetha. Common rice at Karwar 14, district average 13½ seers per rupee.
Rajkot	<i>Nil</i>	Weather hot. Public health generally good. Wheat 33, <i>barfi</i> 30, and <i>mul</i> 43 pounds per rupee.
Bengal—(June 16th)		<i>General Remarks.</i> Rain throughout the Deccan and Southern Mahratta Country and in parts of Guzerat. <i>Kharif</i> sowing operations in progress in most districts. Fever and cattle-disease in parts of Ogha and small-pox in parts of seven districts.
Chittagong	1.48	Weather seasonable. Sowing of <i>aus</i> paddy progressing. Prices stationary. Public health good.
Dacca	4.43	Sowing of <i>aman</i> paddy nearly finished; jute and <i>aus</i> paddy doing well. Prospects good. Public health good.

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
Bengal—contd.		
24-Pergunnahs (Calcutta).	Some rain	Prospects of early rice, jute, and sugarcane good; lands being prepared for <i>aman</i> rice. Public health good.
Moorshedabad . . .	Nil	Weather very hot. All prospects good. Price of rice stationary. Public health good.
Rungpore . . .	Nil	Weather oppressively hot. Rain wanted for ploughing of paddy land. Cholera in the interior; public health otherwise good.
Burdwan . . .	0.03	Prospects of crops good, but rain wanted in parts. Public health good.
Bhagalpur . . .	Nil	Prospects of crops good. Sporadic cholera in north. Prices easy.
Purneah . . .	0.75	All crops doing well. Rain would do much good. Farming operation a little backward in parts for want of rain. Public health good.
Patna . . .	Nil	<i>Bhadra</i> crop being sown in some places; <i>chenna</i> being harvested; sugarcane looks promising. Public health generally good.
Durbhunga . . .	Nil	Weather close and hot. Lands being prepared for <i>bhadra</i> crops, but rain urgently wanted. Prices stationary. General health good.
Hazaribagh . . .	Nil	Weather very hot. Sowings continuing; paddy germinating in places; sugarcane doing well. General health good.
Cuttack . . .	1.91	Weather hot, but cloudy. Rice being sown; lowland <i>sarad</i> growing well. Price of rice unchanged. Public health generally good, except a few cases of cholera in Kendrapara.
Midnapore . . .	0.25	Rain urgently needed for rice cultivation and indigo. Public health generally good.
Khoolna . . .	0.58	Weather hot. <i>Jute</i> sowing progressing; <i>aman</i> lands being ploughed. Public health good.
Dinapore . . .	0.11	Weather very hot, but very dry rain. Cultivation progressing well. Cholera reported from two thanas and cattle-disease from three thanas.
Pubna (Serajgunge) . . .	0.14	Weather very hot. Crops good. Public health good.
Gya . . .	Nil	Extreme heat. Crops doing well. Prices moderate. Public health good.
Chumparun . . .	Nil	Lands being prepared for <i>bhadra</i> sowings. Prices stationary. Some cases of small-pox and fever reported.
General Remarks. —Rain fell in some districts during week, and, except in Dacca, Chittagong, and Cuttack, was very light. Cultivation generally going on, but rain wanted in many places; rice, jute, and sugarcane sown, and young plants doing well; prospects of sugarcane and indigo favourable. Prices of rice stationary. General health good.		
N.-W. Provinces and Oudh —(June 16th)		
Benares (June 14th)	Nil	Weather close and cloudy. Supplies ample. Prices slightly fluctuating. Health generally good.
Gorakhpore („ „)	Nil	Weather very hot and close; clouds collecting. Prices stationary. Health fair.
Fyzabad („ 15th)	Slight showers on 10th.	Intermittent; sky cloudy, with east wind. Prices steady. Health generally good.
Lucknow („ 14th)	Nil	Heat excessive since the last three days. Sugarcane is being irrigated. Supplies sufficient. Price higher than of late. General health good, as well as the condition of cattle.
Rae Bareilly („ „)	Nil	Heat excessive; wind variable. Supplies ample. Prices stationary. Health of men and condition of cattle good.
Partabgarh („ 15th)	Nil	Heat excessive. Indigo and sugarcane being irrigated. Prices all nearly stationary. No sickness.
Allahabad („ „)	Sharp showers on the morning of 15th.	Weather close and sultry. Preparations for <i>kharrif</i> commencing. Markets fully supplied. Prices rising slightly. Health good.
Cawnpore („ „)	Nil	Weather very oppressive. <i>Kharif</i> sowing. Prices steady. Condition of people good; cattle-disease in Behar still going.
Farakhabad („ „)	Nil	Clear heat during past week; strong east wind today. Supplies plentiful. Health of people fair.
Sitapur („ „)	Nil	Wind changeable, but mostly from the east; weather very warm. Public health noneal.
Barcilly („ „)	Nil	Heat excessive; hardly any wind and what there is, is easterly. Prices slightly rising. Public health noneal.
Banda („ 14th)	Nil	Weather close & heat intense. Prices rather easy. Public health good; cattle-disease in two villages.
Ballia („ 15th)	Nil	Weather close and excessively hot. Sugarcane irrigation continues. Supplies plentiful. Public health satisfactory.
Kumaon („ „)	Storm and rain on 14th.	Weather hot, but cloudy. <i>Kharif</i> being sown. Prices stationary. Fever and measles in district; cattle-disease in parts.
Agra („ 14th)	Nil	Weather very sultry. Prices steady. Health good.
Jhansi („ „)	40	Heat oppressive. Prices pretty steady. Slight small-pox and cattle-disease.
Meerut („ 15th)	Storm, with some rain on 14th.	Weather seasonable; great heat; westerly winds. <i>Kharrif</i> sowing in progress, where rain has fallen. Supplies ample. Prices steady. Health good.
General Remarks. Weather excessively sultry; slight showers have fallen in some districts. Supplies are ample and prices generally steady. Public health good.		

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
Punjab—(June 16th)		
Hissar (June 15th)	<i>Nil</i>	Health fair. Prices slightly fluctuating.
Delhi	<i>Nil</i>	Health good. Prices almost stationary.
Umballa	<i>Nil</i>	Health fair. Prices rising.
Jullundur	<i>Nil</i>	Health good. Prices stationary. Prospects of current harvest good.
Ferozepore	<i>Nil</i>	Health good. Prices rising.
Amritsar	<i>Nil</i>	Health good. Prices stationary.
Sialkot	<i>Nil</i>	Health good. Prices stationary.
Lahore	<i>Nil</i>	Health good. Prices stationary. Prospects of current harvest below average.
Mooltan	<i>Nil</i>	Health good. Prices stationary.
Rawalpindi	10	Health good. Prices stationary. Prospects of current harvest below average.
Shalpur	<i>Nil</i>	Health good. Prices stationary.
Dera Ismail Khan	<i>Nil</i>	Health good. Prices stationary.
Peshawar	<i>Nil</i>	Health fair. Prices of wheat and gram rising. Prospects of current harvest below the average.
<i>General Remarks.</i> —No rain has fallen, except in the Rawalpindi district. General health good, but small-pox is prevalent in the city of Dera Ismail Khan. Prices rising in the Umballa, Ferozepore, and Peshawar districts, slightly fluctuating in the Hissar district, elsewhere stationary. <i>Rabi</i> harvest operations nearly finished.		
Central Provinces—(June 16th)		
Nagpur	106	Weather cloudy. <i>Kharif</i> preparations continue. Health good. Prices steady.
Jubbulpore	111	<i>Kharif</i> ploughing in hand. Health good. Prices steady.
Saugor (June 15th)	<i>Nil</i>	Ploughing for <i>kharif</i> commenced. Prices steady. Health fair.
Seoni	188	Weather cloudy and hot. <i>Kharif</i> ploughings in progress. Cattle-disease in place. Prices steady.
Hoshangabad	Showers on 14th	Weather cloudy and close. Small-pox and cattle-disease in places. Prices steady.
Khandwa	194	Land being prepared for <i>kharif</i> . Health fair. Wheat 18, <i>juari</i> 30 and rice 12 seers per rupee.
Raipur	<i>Nil</i>	Weather cloudy and hot. Ploughing continues. Cholera and cattle-disease abating. Prices stationary.
Sambalpur (June 12th)	103	Weather cloudy and close. Rice being sown; sugarcane doing well. Cholera in parts. Prices rising.
<i>General Remarks.</i> —Weather cloudy and hot, with slight rain. <i>Kharif</i> sowings commencing in some districts. Cholera decreasing in Raipur. Prices rising in Sambalpur, elsewhere steady.		
Assam—(June 16th)		
Gauhati	29 during the week ending 15th instant.	Weather hot. Cholera diminishing both in Sadr station and districts; cattle-disease still prevalent. Prospects of crops good.
Sylhet	<i>Nil</i>	No change since last report.
Cachar	141	Weather warm; rain much wanted. Ploughing for <i>ars</i> and <i>asra</i> crops continue. Common rice 14 seers per rupee. Prospects of rice not satisfactory. Fourteen deaths from cholera from Katiara and one from Haldighi reported.
Dibrugarh	110	Weather very hot, rain wanted badly for <i>ali</i> crops in Sadr subdivision, but flood in Rangpoth and Subansiri in North Lakhimpur. Cholera disappearing.
Mysore and Coorg—(June 16th)		
Bangalore	Civil and Military stations, 274; Bangalore district, 130; Mysore, 126; Kolar, 108; Tumkur, 385; rain has been general throughout the State.	Crops generally in good condition; prospects of season favourable. Public health good. No material change in prices, except in the Bangalore district, where they have slightly risen.
Mysore	896	Season favourable for ploughing and sowing rice crops. Health fairly good. Prices stationary.
Mercara		
Berar and Hyderabad—		
Amraoti (June 16th)	137	Weather cloudy and hot. <i>Kharif</i> preparations in progress. Wheat 22 and <i>juari</i> 40 seers per rupee.
Akola	112	Weather cloudy. Preparations for <i>kharif</i> sowings busily pushed on.
Hyderabad	Average 136	Total rainfall since 1st January 853. Ground being prepared for sowing of <i>kharif</i> crops; <i>tibi</i> crops continue to be reaped in one taluka. General health fair. Prices—wheat 15, coarse rice 11, white <i>juar</i> 21, yellow <i>juar</i> 22, and <i>tur</i> 14½ seers per current sica rupee.

Presidency or Province and District.	Rainfall for week under report.	State of agricultural prospects.
Central India States—(June 16th)		
Indore	1.55	Total rainfall 8.23. Weather hot. Health good.
Gwalior	<i>Nil</i>	Health good. Weather cloudy and stormy; heat very great.
Satna	<i>Nil</i>	Weather very hot. Health good.
Neemuch	<i>Nil</i>	Scarcity of water continues. Weather cloudy. Health good.
Goona . . . . .	.26	Four deaths from small-pox in Goona only, otherwise health good.
Agar . . . . .	.15	Moderate rain required. Health and prospects good.
Nowgong . . . . .	.11	Total rainfall .60. Heat increasing. Prices rising. Health good.
Bhopawar (Manpur)		No report received.
Ujjetana—(June 11th)		
Abu (June 11th)	Slight rain	Weather cloudy and close since yesterday; just now monsoon-set.
Sirohi (" 13th)	<i>Nil</i>	Tanks full, wells good. Health good. Sowing of rain crops commenced. Weather cool and fine.
Marwar (" 11th)	<i>Nil</i>	More than six months' water in Jodhpur city tanks. Health good. Weather cooler. Prices rising.
Kherwara (" 13th)	<i>Nil</i>	Tanks west of Kherwara full, other very low. Ploughing commenced. Health good. Single small-pox in district. Prices steady. Weather fine and clear.
Meywar (" 10th)	<i>Nil</i>	Tanks and wells low. Health very good. Prices falling. Weather variable.
Pertabgarh (" 12th)	.07	Some rain, water in wells. Health good. Prices rising. Showers, with return to hot, windy, cloudy.
Haroon (" ")	Deol, 1.19; Tonk, 1.0; Sadulpur, 1.0; Ajmer, 1.71.	Sowing in progress. Health good.
Jhalawar (" 11th)	.87 at Jhalapalan	Health good.
Kotah (" 13th)	.25	Health good. Weather cloudy and close.
Ajmere (" 13th)	<i>Nil</i>	Weather cloudy. Health very increasing. Ploughing continues.
Jaypore (" ")	.20	Weather hot. Health good.
Uwar (" ")	Slight rain in parts	Small-pox and fever in districts. Weather hot. Prices steady.
Bikanir (" 12th)	Rain drops	Good rain in some districts. Small-pox and fever prevalent. Prices stationary. Weather hot and windy.
Malabar—(June 10th)		
Katinandu	<i>Nil</i>	Want of rain felt in the case of rice and other crops lately sown.

No. 102 Met.
12—6

Extract from the Proceedings of the Government of India, in the Revenue and Agricultural Department (Meteorology),—dated Simla, 10th June, 1886.

Read the following:—

Summary of the Weather Reports for May, 1886.

Pressure was more or less above the average during the first week, after which a period of depression set in, lasting for a few days, when the barometer again rose and remained slightly above the average till the 24th. In the last week, however, the pressure again fell below the normal.

On the mean of the whole month, the pressure was slightly above the average in the North-Western Provinces, Assam, Bengal, and Orissa, and below it elsewhere. The rainfall returns show that rain fell in one part or another of Ceylon, Madras, and Burma throughout the month. In Bombay there was no rain till the 16th, and then only a few drops at Sholapore; but on the 20th there was a rather heavy fall at Karwar, and a few showers at two or three stations on the coast to the north, which were repeated till the close of the month. The winds on the Malabar Coast were generally westerly, but light.

In Northern India such rain as occurred was sporadic, and fell at intervals of several days, generally in local storms. The total rainfall of the month was below the average in the Eastern Punjab, Assam, Carhar, Burma, Khandesh, and Berar, and there was little or no rain in Sind and Guzerat. Everywhere else there was either an average quantity or an excess.

This excess was greatest in Ceylon and the Karnatic, more, especially in the last province, where the total fall was about three times the average

amount. This was to a great extent due to the heavy rain, accompanying the cyclonic storm, which crossed the Madras Coast from the Bay of Bengal on the morning of the 24th, and passed across the peninsula during that and the following day.

The temperature of Northern India was changeable; but, on the whole, the mean temperature of the month differed little from the average, being slightly below it in the North-Western Provinces, Bengal, Pegu, and Madras, and above it elsewhere. The greatest excess was about 1° in Sind. South-east winds were more frequent than usual in the Upper Provinces. On the Central Indian plateau and in the western half of the peninsula, the winds were, on the whole, westerly, and on the coasts of the Bay of Bengal southerly. The humidity of the air was generally below the average in the Punjab and above in Southern India.

The following table shows the amount of rain and the difference from the average in the month of May 1886, according to districts, as far as is indicated by the telegraphic reports:—

Districts.				Average rainfall in May.	Difference from the average in May 1886	Remarks.
Punjab, West	...	...	...	1.30	+0.03	
Ditto East	...	...	...	1.82	—0.43	
North-Western Provinces, Trans-Gangetic	...	...	...	1.57	+1.10	
Ditto ditto Cis-Gangetic	...	...	...	0.43	+0.17	
Behar	...	...	...	1.36	+0.17	
Northern Bengal	...	...	...	7.14	+2.37	
Assam, Cachar	...	...	...	14.32	—4.50	
Lower Bengal, Chutia Nagpur	...	...	...	5.75	+1.25	
Orissa, Northern Cutch	...	...	...	2.79	+0.77	
Central Provinces, South	...	...	...	0.65	+0.03	
Berar, Khandesh	...	...	...	0.42	—0.14	
Rajputana, Central India, Saugor, and Nerbudda	...	...	...	0.62	+0.53	
Sind and Cutch	...	...	...	0.11	—0.11	
Gazerat	...	...	...	0.21	—0.16	
Konkan	...	...	...	0.97	+1.50	
Deccan, Hyderabad	...	...	...	1.80	+0.06	
Malabar	...	...	...	7.31	+2.46	
Mysore, Bellary	...	...	...	3.78	+1.71	
Karnatic	...	...	...	2.37	+4.56	
British Burmah	...	...	...	10.62	—0.48	
Ceylon	...	...	...	12.68	+9.46	

SIMLA ;
The 5th June, 1886. }

RUCHI RAM SAINI,
2nd Asst. Meteorological Reporter to the Govt. of India.

RESOLUTION.—Resolved, that the papers be published in the Supplement to the *Gazette of India*.

No. 103 Met.
9-6

Extract from the Proceedings of the Government of India in the Revenue and Agricultural Department (Meteorology), dated Simla, 18th June, 1886.

Read the following :—

Preliminary Report on the Meteorology of the year 1885, prepared in the Meteorological Office, Government of India.

January.—The cool weather which characterized the closing months of 1884 continued during January over the greater part of North-Western India (comprising the Punjab, the Meerut and Bareilly divisions of the North-Western Provinces, Rajputana, Sind, and Guzerat), in Cachar and North Bengal, the south of the peninsula, British Burma, and Ceylon. Within these regions temperature was generally from 1° to 2° below the average. All across the central parts of the country, in a broad band extending from the Bombay coast to Lower Bengal and the western part of the North-Western Provinces, temperature exceeded the normal, the excess in parts of the Central Provinces and Orissa being from 2° to 2½°. Apparently the highest day temperature (93°) was registered in Bellary; the lowest night temperature (35°) on the plains at Mooltan.

Pressure was above the average throughout the whole of the Indian area; less so on the hills than on the plains, and less in Northern India than in the south of the peninsula.

North-westerly winds prevailed with their usual persistence down the Gangetic plain; but in Bengal they were less steady than usual, and at Saugor Island there were frequent southerly winds. On the Arakan coast the normal northerly winds prevailed, but further inland they were strong easterly components. In the central part of the country and on the Circar coast there was an abnormal excess of south-easterly and southerly winds. In Western India the usual northerly winds prevailed, and in the Southern Carnatic north-easterly winds.

This was a damp month over the greater part of India. In the Eastern peninsula, and at some stations in Assam and Bengal, as well as in Ceylon and a few places in the south of the peninsula, there was a deficiency in the relative humidity of the atmosphere, but in all other regions there was an excess. This excess was most marked over the central parts of the country.

On the whole, the skies were more clouded than usual. The excess was greatest in North-Western India, and decreased eastwards and southwards, so that in parts of Eastern India and the peninsula there was greater serenity than usual.

Generally over North-Western India this was a wet month. In the Punjab the rainfall was everywhere in excess. In Rajputana the variations were irregular, while in Central India, except at Bhopal and in Bundelkhand, the total rainfall of the month was below the average. In the Central Provinces and the North-Western Provinces, the anomalies in the month's rainfall were also irregular; in general they were small, but at the hill and sub-montane stations of the North-Western Provinces there was a large excess. The heavy rain of North-Western India did not extend into Bengal, so that, with a few local exceptions, there was a general deficiency. In Assam the variations were small and irregular. Sind shared the heavy precipitation of the Punjab; but the main part of the Bombay Presidency, together with the Berars, Hyderabad, and the peninsula generally, was either rainless or nearly so. In Ceylon and the Bay islands the rainfall was also deficient, as was also the case at all stations in the Eastern peninsula, except Tavoy and Mergui.

February.—This was a cool month throughout almost the whole of India, the only exceptions to the general deficiency of temperature being a few stations in the peninsula and Ceylon. The excess of temperature noticed in

the central parts of the country during January had disappeared, and the relative depression was as great there as elsewhere. At Loh the mean temperature was 9° below the average, on the hills of the North-Western Himalaya from $3\frac{1}{2}^{\circ}$ to $4\frac{1}{2}^{\circ}$ below it, and at several stations on the plateau of North-Western and Central India the depression below the normal was equally great. With few exceptions, the absolute maxima at the different stations were only a few degrees higher than in January, while the absolute minima were in many cases lower in this than in the preceding month.

The excess of pressure, noticed in the previous month, continued during February in parts of the Punjab and Sind, and at a few places in the North-Western Provinces; but elsewhere there was a deficiency greatest in the Central Provinces and the Deccan. It was also greater on the hills than on the plains.

In February the wind circulation was less abnormal than in January. North-westerly winds blew steadily down the Gangetic plain and into Bengal. In Arakan the wind was north-westerly, while, at the inland stations, easterly winds were very frequent. On the west coast of the Bay, the wind was more southerly than usual, and south-easterly to easterly winds extending inland to the Deccan prevailed generally. In Sind and Guzerat the wind was north-north-east, and down the west coast north to west-north-west.

The relative humidity of the atmosphere remained excessive in the Punjab and neighbouring parts of the North-Western Provinces, Lower Bengal, several places in the Central Provinces, and the peninsula; but the regions within which the relative humidity was deficient had extended since the previous month, and now included the whole of Eastern India, Behar, and the western divisions of the North-Western Provinces, Rajputana, Sind, the Konkan coasts, the south of the peninsula, and Ceylon. The variations from the normal were generally smaller than in January.

In Bengal, parts of Central India, and over both peninsulas the sky was abnormally cloudy; elsewhere the amount of cloud was less than usual.

In the Punjab and Rajputana, and indeed throughout almost the whole of Northern India, there was a decided deficiency in the rainfall. In the maritime half of the Gangetic delta, however, there was an excess; and this excess extended into Chittur Nagpur, Orissa, the Central Provinces, and the Berars, as well as southward into Ganjam. Assam, like most other parts of Northern India, had a deficiency. In the whole of the Bombay Presidency, Hyderabad, the Madras Presidency (south of Ganjam), and Mysore and Coorg the month's rainfall was either *nil* or deficient. In Ceylon the variations were irregular, but, on the whole, the month's supply was short; while in Burma the anomalies were equally irregular, but the general results showed a slight excess. In the Bay islands the rainfall was again short of the average.

March.—In March temperature rose above the average over almost the whole of Northern India, but the excess in the majority of cases was less than 1° ; while in the central parts of the country, the peninsula, Ceylon, and a large part of British Burma, the abnormal coolness noticed in the preceding months continued. The extreme day temperatures were in almost all cases considerably higher than those of the preceding month; but the night temperatures showed a much slighter increment, and at the hill stations in the North-West Himalaya the lowest readings were only slightly above freezing point.

Notwithstanding the excess of temperature in Northern India, the pressure was almost everywhere above the normal, both there and in the rest of the Indian area. The excess was less than in January, and hardly so general, one or two stations showing a local deficiency.

North-westerly winds prevailed over North-Western and Central India but especially in the latter region, with rather less steadiness than usual. In Bengal southerly components were unduly developed, and steady south-south-westerly winds prevailed. In Burma the wind was about the normal. On the Northern Circars and Orissa coasts the wind was more southerly than usual. In Madras, the normal east-south-east winds prevailed, and on the west coast north-north-westerly to westerly winds.

The mean relative humidity of this month showed generally but little departure from the average. At a few places in the Punjab and in Lower Bengal there was a trifling excess, but in all other parts of Northern India there was a deficiency. In the central part of the country and in the peninsula the anomalies were small and irregular, while in Ceylon and the Eastern peninsula the relative humidity was below the average.

This was a somewhat cloudy month, except in the lower portion of the North-Western Provinces, Northern Bengal, and parts of the Assam Valley; also on the west coast, and in the south of the peninsula, where the serenity exceeded the average.

It was nevertheless a dry month, though less generally so than February. At the trans-Indus stations, and at Kibbin Bassah, there was a slight excess of precipitation, but at all the other stations in the Punjab there was a deficiency of rain.* In Rajputana, Central India, the North-Western Provinces and Oudh, and in Lower Bengal, the rainfall was almost universally much below the average. But in Behar and Northern Bengal, though some individual stations showed a deficiency, there was generally a slight excess. In Orissa and Chutia Nagpur most stations showed a deficiency. In Assam and Cachar, the anomalies were irregular. In the Central Provinces there was an excess in the southern divisions, and a deficiency in most other places. In the Berars the rainfall was slightly short. In Hyderabad the anomalies were small and irregular. In the Bombay Deccan there was a slight excess, but in nearly all other parts of that presidency the rainfall was short, and in many parts of the Konkan and Guzerat there was no rain. In Malhar the variations in the rainfall were irregular, but in the Carnatic the fall was, on the whole, deficient. Mysore and Ceylon and the Bay islands exhibited conditions similar to those of Madras, while in British Burma the small amount of rain which is usually registered in this month was not received.

April.—This was a cool month in almost all parts of India. Only in Bengal, at a few stations in the western half of the North-Western Provinces, in the extreme south of the peninsula, in the Bay islands, and in British Burma was the mean temperature of the month above the average, and there only by small amounts. Elsewhere the temperature was more or less below the average, depression ranging from 1° to 5° on the plains of North-Western India and Sind, from 1° to 3° over the central parts of the country, and from 1° to 2° in the peninsula and Ceylon. The extreme day temperatures were apparently about the normal, but the extreme minimum readings seen in many cases to have been below the average, considerably so at the hill stations.

On the whole the excess of pressure noticed in March was maintained, and in some cases was indeed intensified; but on the hills of the North-West Himalaya, in Assam and Cachar, and over the whole of Bengal, where the temperature was above the mean, pressure was in defect. The most pronounced excess was shown over the Indus Valley, Sind, and Rajputana, while the greatest depression was in Assam.

In April the north-westerly or westerly winds of the Gangetic plain were more steady than usual, and even in Western Bengal westerly winds prevailed. In Lower Bengal also there was more veering in the winds than usual, but in Burma the directions were about the normal. On the west coast of the Bay steady south-easterly and southerly winds prevailed, while, on the west coast of India, the westerly winds had stronger northerly components than is usually the case.

This was a damp month in the Punjab, the North-West Himalaya, and in most parts of Central India, Rajputana, and Guzerat; but elsewhere the relative humidity was generally below the average. This deficiency was most strongly marked in Bengal and Orissa, while the region of greatest excess was the Punjab.

In both peninsulas, in Northern and Eastern Bengal, and in parts of Ceylon the cloud proportion was below the average, but elsewhere the skies were more than usually clouded.

* In the Punjab all the rain fell at the close of the month, and was accompanied by snow on the hills.

Most of the rain fell over Northern India either at the beginning or at the close of the month. Snow fell on the hills on both occasions. In the Punjab there was more or less excess, greatest on the hills and at the trans-Indus stations. In Rajputana the anomalies were very small and irregular. In Central India there was generally a slight excess; but in the North-Western Provinces and Oudh April was, on the whole, a dry month. In Bengal too, except at Darjeeling and at one or two stations in Eastern Bengal, the amount of rain was below the average. In Assam the variations were irregular, but in Sibschar there was a decided excess. In the Central Provinces and the Berars the average fall of the month was considerably exceeded. In Hyderabad the variations from the normal, as in March, were very irregular, while throughout almost the whole of the Bombay Presidency there was again a deficiency. This was equally the case throughout Madras, Mysore, Ceylon, the Bay islands, and Burma.

Temp.—The distribution of temperature, with respect to the average, was similar to that prevailing in April, but the area within which it was above the average was more restricted. It comprised only Lower Bengal, British Burma, and a few stations in the south of Madras. Elsewhere there was a marked depression of temperature, varying from 2° to 16° on the hills and plains of North-Western India, from 1° to 6° in the central parts of the country, and from 1° to 2° in the peninsula. At some stations the temperature was absolutely lower than in April.

Accompanying the extremely low temperatures noticed above, there was a large excess of pressure throughout the whole of the Indian area. This excess exceeded one-tenth of an inch in the Punjab and parts of Sind. It was much less on the hills than on the plains, and less in the peninsula than in Upper India.

As in the previous month north-west and west winds prevailed with abnormal frequency down the Ganges valley, while, in Bengal, the prevailing wind, instead of being south-south-east, was either from south or some point to the west of south. In the neighbourhood of Cape Negrais the wind was more northerly than usual. On the west coast of the Bay the prevailing directions differed but little from the average, but in the south of the peninsula the wind was more southerly and less south-westerly than usual. On the west coast there was rather more northing in the winds than usual.

In North-Western India, and particularly in the Punjab and adjacent parts of Rajputana, the relative humidity of the atmosphere was again above the average. In the Central Provinces and Central India, and at a few stations in the peninsula this was also the case, only in a modified degree; and nearly everywhere else in the country there was a deficiency. The deficiency was owing to a falling barometer.

May was remarkably only cloudy month, except in Assam, Bengal, Burma, and the peninsula, where there was a deficiency of cloud.

The last few days of the month were dry over Northern India, but about the 26th in Bengal and Assam, and about the 28th in the upper provinces, local storms occurred, and cloudy disturbed weather lasted for some time. In the Punjab and northern parts of Rajputana the rainfall of the month showed a general and considerable excess. In other parts of Rajputana the variations from the normal were irregular, and in Central India the fall was generally above the average. In the North-Western Provinces the rain was, on the whole, about the average; but in Oudh, as also over the greater part of Bengal and Assam, it was generally deficient. In the Central Provinces, the Berars, and Hyderabad the average was generally more or less exceeded; but in the Bombay Presidency, excepting the Deccan, the fall was generally short. This was also the case in Madras and Ceylon. In Burma, and also in the Bay islands, the fall was far short of the average.

June.—Though much less marked than in May, there was yet a very decided depression of temperature during this month in North-Western and Central India, the Madras Presidency, and Ceylon. Elsewhere there had been a

recovery from the depression hitherto prevailing; and in Bengal, the eastern divisions of the North-Western Provinces, the Bombay Presidency, the Bay Islands, and British Burma the temperature was above the average. The deficiency in the Punjab was from $\frac{1}{2}^{\circ}$ to $4\frac{1}{2}^{\circ}$, in the more central parts of the country from 1° to 6° , in Madras from $\frac{1}{2}^{\circ}$ to 2° , and in Ceylon from $\frac{1}{2}^{\circ}$ to 3° ; while the excess in Bengal was from 1° to 2° , in Bombay from 1° to $2\frac{1}{2}^{\circ}$, and in the Bay Islands and Eastern peninsula about $\frac{1}{2}^{\circ}$.

The excess of pressure noticed in the preceding month was maintained, though in a diminished degree, over the greater part of Northern and Central India; but in Lower Bengal, the Berars, Sind, and nearly the whole of the peninsula pressure was in defect. In the Eastern peninsula the variations were irregular, but, on the whole, downward.

In the Punjab the winds were about the normal, but in the North-Western Provinces and Oudh north-westerly winds continued more prevalent than usual. In Bengal, the Northern Circars, Orissa, and Burma the wind directions were about the normal. In the central part of the country the westerly winds were slightly more southerly than usual, but over the peninsula the average direction was generally maintained.

In this month there was a decided rise in the relative humidity of the peninsula and Ceylon, and both there and at several stations in the central parts of the country and in the Punjab the mean humidity of the month was in excess of the average. Elsewhere there was a deficiency, which was again greatest in Bengal.

Except in the North-Western Provinces, Assam, and Bengal, where the variations in the cloud proportion were irregular, but on the whole, below the average, the skies were very cloudy.

The monsoon rains apparently began in Ceylon and on the south-west coast of India about the 1st of June; but the rainfall did not extend steadily up the west coast, and the burst of heavy rain which usually ushers in the rainy season on the Konkan coast did not take place throughout the whole month. The Bengal branch of the monsoon brought rain to Burma, Assam, and Lower Bengal about the 10th, but the rains did not reach the Punjab until after the 26th. In the Punjab, except at the stations in the east and south-east, where there was an excess, the rainfall of the month was considerably short of the average. In Rangoon there was a considerable, but not quite universal excess, and such was the case over the greater part of Central India, the North-Western Provinces, and Oudh. In Bengal the variations were irregular, there being an excess in the 24-Pergunnas, Berar, and stations in North-East and East Bengal, Chittagong, Nappur, and Western Bengal, and a deficiency elsewhere. In Assam and Ceylon the anomalies were irregular, but in places considerable. In the Central Provinces there was a moderate general excess. In the Berars and also in Hyderabad, though some stations showed an excess, the fall was, as a rule, considerably short. Throughout the whole of the Bombay Presidency there was great deficiency, but in Madras, except in Ganjam, where the fall was short of the average, and in south and west Madras, where it was in excess, the anomalies were variable. In Mysore the rain was deficient, but in Ceylon it was above the average. The Bay Islands had more than the usual amount, while in Burma the variations, both above and below the normal, were large.

July.—In July a considerable change took place in the temperature distribution relatively to the normal average. In the Punjab, for the first time since the month of March, the mean temperature was above it. At most of the stations in the Central Provinces and Berar, in Sind, Guzerat, and the northern Konkan, there was also a slight excess. In the North-Western Provinces, Behar, and Northern and Eastern Bengal, in British Burma and Ceylon, on the other hand, the weather was cooler than usual, while, at the peninsula stations, the anomalies were small.

Pressure fell below the average throughout the whole of Northern and Central India, except in Orissa, the neighbouring portions of the Central Provinces, parts of Rajputana and Guzerat. In the peninsula there was a deficiency at most stations on the west coast and in the Deccan, and an excess in Madras and Ceylon. In the Eastern peninsula and at the Bay islands the anomalies were small and irregular.

In the Punjab the general direction of the wind was about the average, but in Eastern Rajputana the wind, instead of being south-westerly, blew from west north-west, the dry quarter. In the North-Western Provinces, and indeed eastward over Bengal, Assam, and Arakan, the general direction of the wind was about the average and this was also the case in the peninsula and on the west coast.

The anomalies in the distribution of relative humidity during the month of July were everywhere small, comprising a slight excess in the North-Western Provinces, parts of Behar, the Central Provinces, the south of the peninsula and Arakan; and a slight deficiency elsewhere.

The only province showing a decided excess of cloud in this month was Burma. In all other parts of the country, though there were numerous local variations, the general serenity was in excess of the average.

The rains, on the whole, were better than during June. In Western India there were several heavy falls in the first half of the month, while in Northern India, excepting the Punjab and generally the western provinces, there was general and heavy rain. In the Punjab only about half the usual amount of rain fell, and in Northern and Western Rajputana there was also a deficiency; but in the east of that province the average was somewhat exceeded. In Central India, save at Lhopal and in some parts of Rewah, the rainfall was short, and this was likewise the case in the Meerut Division of the North-Western Provinces; but in most other parts of the North-Western Provinces, and generally throughout Oudh, the fall was in excess. Bengal exhibited large variations. In the North, and particularly at Julpigorie, there was a large excess, while in South-Western and Western Bengal there was a decided, and in places a large, deficiency. In Assam and Cachar the rainfall was generally heavy. The registers of the Central Provinces exhibited considerable variations, but in the upper part of the Nerhudda Valley there was a certain excess. In the Berars and Hyderabad the anomalies varied considerably; but in Bombay, except in Khandesh and at some of the hill stations, the deficiency noticed in the preceding month continued. Madras showed an excess at the stations on or near the east coast and on the Travancore coast, but a deficit elsewhere. In Mysore there was a general, and in Ceylon a partial, deficiency of rain, while in the Bay islands and Burma there was an excess.

Anomalous. In the Punjab, Sind and Assam, temperature ranged above the average and at most stations in the peninsula there was a slight excess; but elsewhere it was lower than the average. In the North-Western Provinces and Bengal the relative depression was greater than in July, amounting to between $1\frac{1}{2}$ and $2\frac{1}{2}$. In Burma the depression was about equal to that of July.

The deficiency of pressure noticed in July continued and extended during August. Only in the south of the peninsula and in Ceylon and the Bay islands was the mean pressure above the average, and then only by small amounts. The greatest deficiency was in Western Rajputana and Sind, where it exceeded 0.05 inch.

South-easterly and easterly winds prevailed generally up the Gangetic plain, but with rather less than their normal steadiness. In Bengal and Burma the wind varied between south-south-west and south-south-east, and was about normal in direction. On the west coast of the Bay, and at several stations in the central parts of India and the peninsula, the winds blew from a point slightly more southerly than usual. On the west coasts of India the direction was about the normal.

At several stations in Ceylon, and at most stations in the peninsula and Assam, the humidity was below the average; but elsewhere it was in excess.

This excess was greatest in the south-east of the Punjab and in the Agra and Meerut divisions of the North-Western Provinces. August was generally unusually cloudy, except in Assam, Madras, and Ceylon, where the weather was clearer than usual.

In some respects the rains of this month were similar in character to those of the two preceding months. In Northern India they were generally excessive, much more so than in July; while in the peninsula, with the exception of the coast stations, the fall was short. The Punjab showed an excess, except over a region extending between the Jhelum and Sutlej. Rajputana, Central India, the North-Western Provinces and Oudh all had a very heavy rainfall. In Bengal the excess was restricted to the western and central districts. The northern districts and Assam exhibited a considerable deficiency. The Central Provinces were also short of rain, and in the Berars and Hyderabad, as in the preceding month, the total fall was below the average. In Bombay, parts of the Deccan, and some places on the west coast showed a small deficiency, but in general, throughout that presidency, the average was exceeded. At the Madras stations, excepting those on the west coast, in Mysore, and Ceylon, the rainfall was short. This was also the case in the Bay islands, but in Burma there was an almost general excess.

September.--Over the greater part of the Punjab and in Sind the excess of temperature which had characterized the two preceding months had disappeared on the hills, and was succeeded by a considerable depression. In the North-Western Provinces the anomalies were variable, while in Assam and Bengal there was a decided depression of temperature. In Orissa, and to the west, in the Central Provinces, Central India, and Guzerat, and to the south over the peninsula and Ceylon, temperature was almost everywhere above the average, the excess varying between $\frac{1}{2}^{\circ}$ and $2\frac{1}{2}^{\circ}$. Northern Rajputana, like the Punjab, showed a depression of temperature, and in British Burma the anomalies were irregular.

The distribution of the pressure anomalies had undergone a considerable change. Except at a few stations in the south of the peninsula and in Ceylon, pressure was in excess, considerably so in the North-Western Provinces, the Central Provinces, and Rajputana.

Abnormal north-westerly winds prevailed generally down the Gangetic plain and over Rajputana, and extended to a considerable degree into Central India, the Central Provinces, and the Deccan. In Bengal the wind, instead of being from south-south-east, the average direction in this month, was from south-south-west. In Burma the normal winds prevailed, and in Madras there was very little departure from the average; but along the west coast the wind was slightly more northerly than usual.

Except in Madras, Assam, and one or two stations in Bengal, this was a dry month, the relative humidity being very deficient. The deficiency was greatest in the Central Provinces, but almost equally great in parts of Rajputana.

In the Indus Valley there was more than the usual amount of cloud, and this was also the case in Bengal; but elsewhere, owing to the early cessation of the rains, the general serenity far exceeded the average.

Over North-Western India the rains ceased early in the month. In Bengal rain continued to fall until near its close, and was very heavy between the 21st and 24th. In the peninsula showers occurred throughout. In the Punjab, Rajputana, Central India, the North-Western Provinces, except the most easterly divisions, and Oudh, except at one or two stations, the fall was much below the average. In Bengal, on the contrary, except in the 24-Pergunnahs, in some parts of Eastern Bengal, Orissa, and South-West Bengal, the total fall of the month was considerably above the average. Assam and Cachar had also more than the normal amount of rain, but in the Central Provinces and the Berars the rainfall was largely deficient. In Hyderabad, for the first time since the setting in of the rains, there was an excess. The Bombay returns

show heavy rains in the Deccan and at a few places on the Konkan coast, but a deficiency in all other parts of the presidency. In Madras the rainfall variations were very irregular. There was a deficiency in Ganjam, in Travancore, and at many of the inland and southern stations. In Mysore the anomalies were also irregular, while in Ceylon there was a slight excess. Burma had less and the Bay islands more than the average.

October.—Over nearly the whole of Northern India (with the exception of the Assam valley), the Central Provinces, the peninsula as far south as Bangalore, and also in the Bay islands temperature ranged above the average. The excess was rather greater in Rajputana and the Central Provinces than elsewhere; otherwise it was fairly uniform between 1° and 2° . In the extreme south of the peninsula, from Madras round to Cochin, as well as in Ceylon, there was a depression of temperature, averaging in the former case about $\frac{1}{2}^{\circ}$, and in the latter varying between $\frac{1}{2}^{\circ}$ and $1\frac{1}{2}^{\circ}$.

Notwithstanding the generally high temperature, the mean pressure of October was above the normal. Only at one or two stations in the Punjab and in Sind and Guzerat were the means of the month below the average, and there only by small amounts. The greatest excess was in the south, but in parts of Burma and at the Bay islands it was almost as great.

On the whole, the winds in Northern India did not differ greatly from the average, though in some places, and particularly in the Lower Gangetic Valley, the north-westerly winds were abnormally steady. In Lower Bengal and Orissa the winds were very variable. In the Central Provinces, the Deccan, and down the Nerbudda Valley to the coast, the normal north-easterly winds prevailed. In the peninsula the wind directions were very variable.

This was a dry month, but less generally so than the preceding. In Assam there was again a slight excess of humidity, and this was also the case at the majority of the stations in the peninsula. In Ceylon and the Eastern peninsula the anomalies were small and irregular, though generally downward.

The skies generally were more clouded than usual. In the western districts of the North-Western Provinces however, in Behar, and Chutia Nagpur there was locally greater serenity.

In North-Western India the fine weather which set in in September continued uninterruptedly; but elsewhere it became showery and unsettled. In the Punjab, Rajputana, the greater part of Central India, the North-Western Provinces and Oudh, and nearly the whole of Bengal there was either no rain, or the total fall of the month was deficient. At a few stations in Northern and Eastern Bengal there was, however, a slight excess. Assam, like Bengal, had a generally deficient rainfall; but the Central Provinces, the Berars, and Hyderabad had more than the usual amount. Bombay exhibited a deficiency in Sind and Guzerat, and an excess in almost all other parts of the presidency. In Madras there was a very general, and in places, a considerable excess, at the southern and western stations, but a deficiency elsewhere. In Mysore and Ceylon the rainfall was excessive, while both in the Bay islands and in Burma the monthly amount was below the average.

November.—The abnormal excess of temperature which characterized October prevailed even more generally in November. In India only at one or two stations in Bengal and in the peninsula was the mean temperature below the average, though in Ceylon and the Eastern peninsula the variations were more irregular. The relative excess was decidedly greater than during October, especially in the Punjab, Southern Rajputana, and Sind, where it averaged between 3° and 4° .

The excess of pressure was both more general and more marked than in October, and the excess was as pronounced on the plains as on the hills.

The general wind directions in November were about such as are usual. North-westerly winds prevailed at most stations in the Punjab, the North-Western Provinces, and Behar; northerly and north-north-easterly over Bengal

and the Central Provinces; and north-easterly winds in Central India, the Deccan, and the greater part of the peninsula. On the Travancore coast the wind was north-north-westerly.

The relative humidity anomalies of November were generally very similar to those of October. At a few stations in the North-Western Provinces, in Assam, Lower Bengal, Guzerat, and Madras there was a slight excess, while in nearly all other places there was a deficiency. In Ceylon and the Eastern peninsula the variations remained very small.

November was a very serene month in Northern India (excepting Assam and Lower Bengal), in the Madras Presidency, and Ceylon; but in Bombay, the Central Provinces and Berar, the Eastern peninsula, and the two provinces noticed above, the amount of cloud was in excess of the normal average.

All over Northern and Central India the weather was even more than usually fine. The Punjab, Rajputana, Central India, the North-Western Provinces and Oudh, and nearly the whole of Bengal and Assam had little or no rain. About the middle of the month the weather of the Bay and the surrounding coasts became very unsettled, owing to a cyclonic storm which was developed in the south of the Bay about the 17th, and traversed nearly the whole length of the Bay on a north-east course, finally crossing the Arakan coast north of Akyab. In Hyderabad the rainfall was rather greater than usual, but in Bombay, with the exception of some stations in Kharolch and the Deccan, the total was below the average of the month. In the south of Madras the rainfall was somewhat deficient, but in nearly all other parts of the presidency there was a large excess, due in great part to the cyclone noticed above. Mysore, like the southern districts of Madras, had less than its normal amount of rain; and in Ceylon the variations were irregular. In Burma there was an excess, due to heavy falls on the Arakan coast.

December.—This, like November, was a warm month over the greater part of the country, but the excess was much less than in November; and on the hills of the Punjab, at most stations in the North-Western Provinces, in Western Bengal, in the Central Provinces, Berar, Rajputana, the Konkan, and British Burma there was a slight depression of temperature. The greatest excess was in the Punjab and Sind; the greatest depression (excepting at the hill stations) in the Central Provinces.

The abnormally high pressures prevailing in the previous month had disappeared, except from Assam, Bengal, and parts of the North-Western Provinces and Burma; in all other places there was a distinct, though generally moderate, depression.

The winds showed comparatively little deviation from the normal. North-westerly winds prevailed over the upper provinces, drawing into north and north-north-east over Bengal and the Central Provinces. In Central India, the Deccan, and Carnatic, the wind was generally north-easterly to easterly, while down the west coast it was almost due north.

The air was generally damper than usual. The only important exceptions to the general high humidity were Sind and Western Rajputana and parts of Ceylon. In the Eastern peninsula the anomalies remained very small. The greatest excess was in Berar and Central India.

It was very cloudy, except in Sind and Guzerat. The excess of cloud was greatest in Northern India and least in the peninsula.

The fairly fine weather which had prevailed during November broke up early in December, and conditions became generally unsettled. In the Indus Valley, the rainfall of the month was below the average, but in all other parts of the Punjab it was in excess; and this was also the case in Rajputana, Central India, the North-Western Provinces and Oudh, and throughout the greater part of Bengal. In Eastern Bengal and Chittagong there was a slight deficiency. In Assam and Cachar a slight excess. In the Central Provinces, Berar, and Hyderabad the monthly average was very considerably exceeded; but in the Bombay Presidency, except at a few places

in the Deccan and Khandesh, the total fall was below the normal. In Madras and Mysore there was a general, and in places a considerable excess. In Ceylon, except on the south-west coast, the rainfall was also abnormally heavy. This was also the case in the Bay islands; but in Burma the rain was lighter than usual.

Year.—With one or two exceptions, chiefly in Western and Lower Bengal, the mean temperature of the year was below the average throughout Northern and Central India. In the peninsula the anomalies were small and more variable.

On the mean of all the months, pressure was above the normal almost everywhere. The greatest and most general excess occurred in May, and the most general deficiency in August.

On the mean of the whole year the air was generally drier than usual, except in the central parts of the country and in the Carnatic, where it was somewhat damper.

The amount of cloud was above the average over almost the whole of Northern and Central India. Only in Sind and parts of Rajputana was the normal serenity exceeded. In the peninsula and Ceylon the skies were clearer than usual. In the Eastern peninsula the variations were irregular, but in the valley of the Irrawaddy there was an excess of cloud. At the Bay islands the year was slightly less cloudy than usual.

On the whole the year was dry in the central divisions of the Punjab, but abnormally wet in the remainder of the province, in a great part of Rajputana, in Central India (except the more western states), in the North-Western Provinces and Oudh, and over a large part of Bengal. In Assam, on the other hand, the rainfall of the year was deficient at the majority of stations. In the Central Provinces south of the Satpuras it was abnormally heavy; in other parts of those provinces somewhat deficient. In the Berars the northern stations had more and the southern stations less than the average, and in Hyderabad also the anomalies were very irregular. In Bombay the rainfall was short. Madras, like Hyderabad, exhibited very irregular variations; but, on the whole, there was a decided deficiency in the southern districts. In Mysore there was an excess, except in the neighbourhood of Bangalore. Both in Ceylon and Burma the variations were irregular, but in the case of Burma, the total was considerably in excess. At the Bay islands there was a large deficiency.

RESOLUTION.—Resolved, that the Report be published in the Supplement to the *Gazette of India*.

C. J. LYALL,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.
PUBLIC WORKS DEPARTMENT.
RAILWAY TRAFFIC.

No. VII OF 1886-87.

APPROXIMATE STATEMENT OF GROSS RECEIPTS AND EXPENSES OF INDIAN RAILWAYS.

Date of Return received.	Railways.	RECEIPTS FOR WEEK ENDING 31ST MAY 1886.		RECEIPTS FOR WEEK ENDING 1ST AND 2ND MAY 1886.		TOTAL RECEIPTS FROM 1ST APRIL TO 31ST MAY 1886.		TOTAL RECEIPTS FROM 1ST APRIL TO 22ND MAY 1886.		Total Increase in Receipts since 1st Decr. 1885.	To Decr. 1886.	
		Total.	Per mile open.	Total.	Per mile open.	Total.	Per mile open.	Total.	Per mile open.			
	Guaranteed.											
2nd May 1886	Oudh and Rohilhand	603	1,352.95	2	0	1,453.55	171	164,496	299	1,254,660	211	2,12,579
3rd do.	Madrass	51	1,547.00	1	101	1,750.00	170	10,127.12	16	10,127.12	107	17,390
4th do.	South Indian	154	969.00	1	64	1,750.00	104	10,127.12	135	7,438.00	173	7,757.7
5th do.	Great Indian Peninsula	1,04	8,771.00	5	1,04	10,397.7	734	248,954.8	687	80,011.00	717	5,74,000
6th do.	Bombay, Baroda and Central India	404	3,962.00	70	100	5,300.00	535	3,15,533	611	27,64,700	740	6,43,031
	TOTAL	1,212	1,22,647.95	331	1,000	1,67,000.00	350	1,67,000.00	1,000	1,67,000.00	443	6,71,303
	State.											
24th May 1886	East Indian	1,700	10,751.75	700	1,315	10,856,170	1,017	70,814,105	600	70,814,107	670	3,57
25th May	Western Bengal	17	77,747	51	234	89,14	8	6,72,101	370	6,15,000	353	2,276
26th do.	Nallah	7	1,000	31	27	1,000	80	1,000	72	1,000	94	2,276
27th do.	Northern Bengal	240	3,100	17	240	4,000	100	2,85,000	151	3,37,000	183	52,000
28th do.	Kumaon District	3	2,717	0	37	1,000	54	1,000	81	1,000	60	1,000
29th do.	Telook	80	27,000	101	240	31,100	100	2,24,770	113	1,77,000	120	12,808
30th do.	Praia Gora	87	72,700	13	2	10,000	100	1,000	120	10,000	221	15,050
31st do.	Cawnpore, Achnut	240	14,700	0	230	20,000	100	1,24,000	100	1,70,000	94	5,148
1st do.	Dihlwan and Ghazipur	1	1,427	10	11	1,000	100	10,000	113	10,000	114	1,000
2nd do.	Kanpur and Mitha	1,111	2,000,000	0	1,411	4,000,000	2,000	23,000,000	2,000	23,000,000	2,000	4,000,000
3rd do.	Wardha Coal	45	13,000	0	48	14,000	300	1,00,000	300	1,00,000	300	1,00,000
4th do.	Nagpur and Chhattisgarh	110	4,000	0	110	3,540	108	3,540	300	3,000,000	320	...
5th do.	Bombay Baroda	11	2,500	110	27	42,000	100	3,000,000	200	3,000,000	140	...
6th do.	Sindh	7	0	0	7	1,000	0	1,000	0	1,000	100	2,382
7th do.	North-Western	1,000	6,000,000	200	1,800	5,000,000	275	8,000,000	400	17,000,000	277	18,3
8th do.	Ajmer and Jaipur	0	1,000	0	100	1,000	0	1,000	0	1,000	0	...
9th do.	Bombay Paltan	30	1,000	0	30	1,000	0	1,000	41	17,000	05	1,000
10th do.	Dacca	10	1,000	100	20	3,000	20	17,000	20	3,000	82	1,000
11th do.	Kolkata	5	400	20	30	400	10	3,000	10	1,000	15	941
12th do.	Cawnpore-Kalpi	...	...	...	...	3,332	73	...	...	20,000	07	20,000
	TOTAL	1,000	1,000,000	...	...	1,000,000	...	1,000,000	...	1,000,000	...	1,000
GRAND TOTAL (GUARANTEED AND STATE)												
		1,771	1,72,804	307	100	1,673,037	354	1,673,037	353	1,673,037	373	7,1
GROSS ESTIMATED EXPENSES												
		
NET RECEIPTS												
		
Assessable Companies.												
24th May 1886	Bombay-Central	120	6,400	70	120	10,000	81	27,000	80	70,278	81	...
25th do.	Rohilhand and Kumaon	67	4,800	7	67	6,081	61	30,377	70	54,355	100	15,078
26th do.	Veram	...	(a)	...	...	(a)	...	(b) 1,13,841	54	1,13,841	88	10,107
27th do.	Southern Maharastra	214	1,8881	74	310	31,307	100	60,000	36	2,45,037	103	1,51,131
28th do.	Bombay and North-Western	303	25,000	10	303	30,410	120	21,7473	94	30,5007	130	95,431
29th do.	Tatkalasan	...	...	...	...	...	...	...	...	...	...	700
	TOTAL	711	2,70,000	...	711	90,000	113	4,00,000	81	7,70,000	113	2,78,045
Native States.												
20th May 1886	Bharwagar-Gondal	133	30,131	903	133	30,858	160	2,13,100	140	2,13,003	140	417
21st do.	Indrapur	94	2,003	18	94	4,300	68	2,000	40	31,000	67	9,380
22nd do.	Nizam	...	(a)	...	...	(a)	...	(b) 1,81,008	207	1,48,717	110	...
23rd do.	Mysore	140	8,310	60	140	8,431	60	8,000	54	8,000	57	1,000
24th do.	Rajputana-Patnala	10	...	11	10	1,000	74	...	60	9,000	82	2,271
	TOTAL	413	51,007	104	413	44,200	168	4,81,700	160	4,81,307	161	...
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N.B.—As regards the figures in column "Total Receipts from 1st April to date," audited figures have been availed of as far as possible.

(a) Return not received.

(b) Total receipts from 1st April to 16th May 1885.

(c) Total receipts from 1st April to 15th May 1830.

SIMLA.

FRED. FIREBRACE, *Major, R.E.,*
Under Secretary

The 16th June, 1886.

